SENATE.

THURSDAY, *September 10, 1914.*

(Legislative day of Saturday, September 5, 1914.)

The Senate reassembled at 12 o'clock noon, on the expiration of the recess.

The VICE PRESIDENT. The Senate resumes consideration of Senate bill 6398, and the pending amendment is the amendment of the Senator from North Carolina [Mr. OVERMAN].

THE COTTON CROP.

Mr. VARDAMAN. Mr. President, I ask unanimous consent to have printed in the RECORD a petition from citizens of Quitman County, Miss., with reference to the cotton situation.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The petition was referred to the Committee on Agriculture and Forestry, as follows:

To the Congress of the United States:

The cotton growers, merchants, and other business men of Quitman County, Miss., respectfully represent—

That by reason of the conditions brought about by European war, involving countries that consume the major part of our cotton that is exported and the certainty of the calamity that will befall the entire business interests of the South if steps are not taken to assist the farmers in carrying over a sufficient percentage of the cotton crop of 1914 until such time as the foreign manufacturers can enter the market for such cotton, we are confronted with the conditions that will practically bankrupt the entire South unless Congress now in session make some provision to assist the cotton growers, similar to the provisions made by Congress for the protection of the banks during the threatened money panic.

While we have the utmost confidence in the ability of representatives in the Senate and House, and while we know that their every energy will be exerted in our behalf, we beg leave to impress upon our Senators and Representatives the importance of prompt action, and respectfully suggest a plan similar to the one hereinafter outlined, which will insure the protection of the South against the present and impending danger; and with this in view, we suggest:

First. That cotton be stored by the growers of cotton in warehouses provided by the growers or counties or States at such places in each county in cotton-growing States as shall be designated by proper agents of the Departments of Agriculture and Markets of the Government.

Second. That all the cotton stored in such warehouses shall be in charge of an agent or agents of the Departments of Agriculture and Markets of the Government, who shall be appointed by said departments, and who shall be paid by an assessment on the cotton, as hereinafter provided.

Third. That said cotton, when so stored in such warehouses, shall be sampled and classified by such agents of the Departments of Agriculture and Markets in the same manner and on the basis provided for the standard grading and classification of cotton by said department, and said grading and sampling to be by three samples, one to be delivered to the owner, two retained by the agents in the warehouse, one of which shall be delivered to the purchaser when sold.

Fourth. That a committee of three or five members, to be appointed by the Departments of Agriculture and Markets be appointed, whose duty it shall be to pass upon and settle all of the disputes or differences that may arise over the classification or grading of cotton.

Fifth. That a valuation of 12½ cents per pound for upland middling cotton be established by said agents of said departments and a corresponding valuation on the other grades and staples be placed by said agents.

Sixth. That when such cotton is so stored in such warehouses and graded and classified and valued, the said agents of said departments in charge of said warehouses shall issue a receipt to the owner of said cotton, a duplicate of which he shall keep, stating the name of the owner, weight of the cotton, grade and value per pound, and which receipt shall give the number and mark of each bale.

Seventh. That the receipt so issued shall be considered and shall be taken by any Federal reserve, National, or State bank as collateral security for a loan of 80 per cent of the value so fixed by said agent, and which loan shall be made for a term not exceeding 6 months, with the privilege of renewal for 12 months, and which loan by said bank shall not exceed 4 per cent interest per annum.

Eighth. That the said warehouse receipt held by said bank shall be taken and considered as authority of said bank to issue certificates as now provided by law for certificates to be issued by a bank on commercial paper.

Ninth. The said agent in charge of said warehouse shall take out enough insurance to cover the cotton held in said warehouse.

Tenth. When the cotton is sold the owner shall pay such an amount for each bale thus stored by him as may be designated by the agent of the Department of Agriculture in charge of said warehouse for the purpose of paying the insurance and other necessary expenses that might have been incurred by said agent, including the salary to be fixed by said department.

Eleventh. Each owner of cotton availing himself of the privileges herein provided for shall obligate himself by written contract to reduce his acreage of cotton for 1915 to such an amount as may be designated by the Department of Agriculture, and his failure to reduce such acreage shall deprive him of the privilege of renewing his loan on the cotton at the end of six months, and shall subject him to such fine as may be designated by the Departments of Agriculture and Markets.

All cotton-growing counties in this and other States are urged by this mass meeting to take some similar action on this question.

W. T. COVINGTON, *Chairman.*
W. E. GORE, *Secretary.*

COAL DEPOSITS IN ALASKA.

Mr. POINDEXTER. I ask unanimous consent to present by the way of a petition a resolution of the Seattle Commercial Club. It is brief, and it expresses such a real and pressing need in these unusual times that I ask unanimous consent that the Secretary may read the resolution and accompanying letter.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read as requested.

The Secretary read as follows:

SEATTLE COMMERCIAL CLUB,
Seattle, Wash., September 4, 1914.

Hon. MILES POINDEXTER,
United States Senate, Washington, D. C.

DEAR SENATOR POINDEXTER: We are inclosing you a resolution in regard to the opening of the coal fields in Alaska, which was recommended by our national affairs committee and unanimously passed by the Seattle Commercial Club in regular session last Tuesday evening.

We will, indeed, appreciate very much your kind consideration in this matter, because we have had a representative make a tour of southeastern and southwestern Alaska, and it is absolutely necessary that something be done at once to relieve the coal famine that is beginning and is sure to exist throughout Alaska.

With best wishes.

Very truly, yours,

SEATTLE COMMERCIAL CLUB,
By OTTO A. CASE, *Secretary.*

SEATTLE COMMERCIAL CLUB.

Resolution recommended by its national affairs committee and unanimously adopted by the Seattle Commercial Club in regular session September 1, 1914:

Whereas practically all the coal now consumed in Alaska, as well as a large percentage of the coal used on the Pacific coast outside of Alaska comes from British Columbia; and

Whereas should the war now raging in Europe cause this supply to be cut off, Alaska and Pacific coast industries—and especially the former—will be paralyzed and widespread desolation follow; and

Whereas the coal for naval use on the Pacific is uniformly brought around from the Atlantic States; and

Whereas vessels carrying this coal are largely foreign bottoms now no longer available owing to the war; and

Whereas in spite of incomplete and unsatisfactory tests, we confidently assert that Alaska coal is suitable for naval use, and has been so pronounced by Dr. Brooks and Dr. Martin, of the United States Geological Survey: Now, therefore, be it

Resolved by the Seattle Commercial Club, That the existing necessities and future probabilities warrant the immediate appropriation by Congress of a sum to provide for the development of Alaska coal deposits directly by the Government, sufficient to take care of at least the present necessities; and be it further

Resolved, That legislation providing for the leasing of Government-owned coal deposits should be pushed to final passage and private capital encouraged to develop the coal under Government leases; and be it further

Resolved, That we most urgently request departmental action which will definitely settle at the earliest possible moment the so-called coal cases now pending; and be it further

Resolved, That copies of this resolution be sent to the Secretary of the Interior and to the Members of the United States Senate and United States House of Representatives from the State of Washington and to the congressional Delegation from Alaska.

During the reading of the resolution,

Mr. SIMMONS. I desire to ask the Senator from Washington if he would not be content to let the resolution be printed without reading?

Mr. POINDEXTER. I should like very much to have it read. I will state that it is only one page and will take but a moment.

Mr. SIMMONS. Very well.

The VICE PRESIDENT. Permission has been heretofore given for the reading.

After the reading was concluded,

The VICE PRESIDENT. The resolution will be referred to the Committee on Public Lands.

Mr. POINDEXTER. I request to have printed in the RECORD in connection with the resolution which I just presented Senate bill 4514.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

A bill (S. 4514) to authorize the President of the United States to mine coal in Alaska, to reserve from private appropriation or lease certain lands and coal deposits in Alaska owned by the United States, and for other purposes.

Be it enacted, etc., That the President is empowered, authorized, and directed to cause to be reserved from private appropriation or lease, in such tracts and locations as he shall determine, one-half of the coal lands and coal deposits in Alaska owned by the United States, including at least, as near as can be estimated, one-half of the high-grade coal (and no coal lands or coal deposits whatsoever in Alaska shall hereafter be disposed of except by lease, as hereinafter provided, and in any public lands hereafter alienated by the United States in Alaska there shall be reserved to the United States title to all coal deposits therein); and he is further authorized, empowered, and directed to cause coal mines to be opened and equipped on the public lands in Alaska so reserved, and to provide for the transportation, distribution, and sale of the products of the same to the Government railroad or railroads, to the United States Army and Navy, and other Government services, and to consumers of coal in Alaska or in the Pacific Coast States.

SEC. 2. That any coal lands not reserved as herein provided may be leased by the President to private parties for coal-mining purposes, all leases being subject to the following conditions, which shall also apply to the Government mining service, and any lease being revocable upon breach of any such condition

SEC. 3. That the minimum wage paid any class of labor employed in mining operations on lands so leased shall be not less than the average wage paid for that class of labor by other employers under equivalent conditions, to be determined by the President; the hours of labor of all persons employed shall not exceed 48 per week, save in emergencies wherein life or property is in imminent danger; no person under the age of 16 years shall be employed; the President shall

make all general rules and regulations to insure the safety of operatives employed; to provide for detailed reports upon all accidents; to provide for just and reasonable compensation in the case of any operative who may be injured or killed in the course of his work; to prevent unnecessary waste of coal in mining; to prevent any adulteration whatsoever of coal sold by any lessee or by the Government; and to provide for suitable and just fines to be imposed upon any lessee as penalties for specific breaches of rules or conditions of lease.

SEC. 4. That the coal land leased to any one lessee shall constitute a contiguous tract, having an area or coal content estimated to be sufficient to form an efficient working unit, but shall not include more than 2,560 acres; no lease shall run for more than 50 years; no coal land shall be subleased nor in any way whatsoever used for speculative purposes, and if any of the lands or deposits leased under the provisions of this act shall be subleased, trusteed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form part of or in any way effect any combination or are in any wise controlled by any combination in the form of an unlawful trust, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, or of any holding of such lands by any individual, partnership, association, corporation, or control, in excess of 2,560 acres in the Territory of Alaska, the lease thereof shall be canceled, and said individual, partnership, association, or corporation shall forfeit the right thereafter of obtaining lands under lease under the provisions of this act.

SEC. 5. That the term "lessee" as used in this act shall refer to any person, firm, or corporation representing a single independent interest to whom coal land is leased under the provisions of this act.

SEC. 6. That all coal land leased to private parties shall be at such uniform charge per acre per annum as to be sufficient only to render unprofitable the holding of such land without production, said charge to be fixed and from time to time readjusted by the President, and an equivalent charge per acre per annum shall be collected from the Government mining service, the receipts from all such charges to be paid into the school and road fund of the Territory of Alaska, to be expended under the direction of the Legislature of Alaska.

SEC. 7. That the sum of $1,000,000 is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to enable the President to carry out the provisions of this act.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McLEAN:

A bill (S. 6469) granting an increase of pension to Katie M. Penfield (with accompanying papers); and

A bill (S. 6470) granting a pension to Minna Schue (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 6471) granting an increase of pension to Gordon P. Ostrander (with accompanying papers);

A bill (S. 6472) granting an increase of pension to James L. Redding;

A bill (S. 6473) granting an increase of pension to Jacob Jones;

A bill (S. 6474) granting an increase of pension to Charles J. Many;

A bill (S. 6475) granting an increase of pension to William A. Downs; and

A bill (S. 6476) granting an increase of pension to William W. Chew; to the Committee on Pensions.

By Mr. BANKHEAD:

A bill (S. 6477) granting an increase of pension to Jennings J. Pierce; to the Committee on Pensions.

By Mr. SHIELDS:

A bill (S. 6478) to establish a new judicial circuit of the United States with a circuit court of appeals, hereafter to be called the tenth circuit; to the Committee on the Judiciary.

By Mr. ROBINSON:

A bill (S. 6479) granting an increase of pension to Jonathan Thuma; to the Committee on Pensions.

AMENDMENT OF NATIONAL BANKING LAWS.

Mr. SIMMONS. I ask the unanimous consent of the Senate to temporarily lay aside the unfinished business, that the Senator from Missouri [Mr. REED] may present to the Senate the measure which was pending at the time the Senate took a recess.

Mr. SMOOT. I think that has already been granted.

The VICE PRESIDENT. This is the same legislative day as yesterday, and when the Senate took a recess the pending question was on the amendment offered by the Senator from North Carolina. That question is yet before the Senate, unless there is a motion to supplant it by something else.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6398) to amend section 1 of an act approved May 30, 1908, entitled "An act to amend the national banking laws."

Mr. REED. I ask to have the pending amendment read.

The VICE PRESIDENT. The Secretary will read the proposed amendment.

The SECRETARY. Amendment by Mr. Overman: Add a new section to the bill, to read as follows:

SEC. 2. That the act to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act, approved August 4, 1914, be further amended by striking out, in the second paragraph of said act, line 3, the word "three" and insert in lieu thereof the word "one," so that the said paragraph shall read as follows:

"National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first three months a tax at the rate of 1 per cent per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax rate of one-half of 1 per cent per annum for each month until a tax of 6 per cent per annum is reached, and thereafter such tax of 6 per cent per annum upon the average amount of such notes: *Provided further*, That whenever in his judgment he may deem it desirable the Secretary of the Treasury shall have power to suspend the limitations imposed by section 1 and section 3 of the act referred to in this section, which prescribe that such additional circulation secured otherwise than by bonds of the United States shall be issued only to national banks having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than 40 per cent of the capital stock of such banks, and to suspend also the conditions and limitations of section 5 of said act, except that no bank shall be permitted to issue circulating notes in excess of 125 per cent of its unimpaired capital and surplus. He shall require each bank and currency association to maintain on deposit in the Treasury of the United States a sum in gold sufficient in his judgment for the redemption of such notes, but in no event less than 5 per cent. He may permit national banks, during the period for which such provisions are suspended, to issue additional circulation under the terms and conditions of the act referred to as herein amended: *Provided further*, That the Secretary of the Treasury, in his discretion, is further authorized to extend the benefits of this act to all qualified State banks and trust companies which have joined the Federal reserve system or which may contract to join within 15 days after the passage of this act."

Mr. SMOOT. Mr. President, I offer an amendment to the amendment by striking out "one," on page 1, line 7, and inserting "two." I will take just a short time to explain my reasons for offering the amendment.

Mr. REED. Will the Senator state the amendment again?

Mr. SMOOT. Strike out the word "one," in line 7, page 1, and insert "two," changing the present law from 3 per cent to 2 per cent.

Mr. REED. I do not see how it will come in, because line 7, as I have the print of the bill, has no word "one" in it.

Mr. SMOOT. Not the bill, I will say to the Senator, but the amendment.

Mr. REED. Is it an amendment to the Overman amendment?

Mr. SMOOT. It is an amendment to the Overman amendment.

Mr. REED. Very well.

Mr. SMOOT. Mr. President, at the time the Aldrich-Vreeland bill was passed the Government of the United States received no interest whatever on its daily balances, but since the passage of that act the Government of the United States is receiving 2 per cent per annum on the daily balances placed in the different banks of the country.

The reason why I offer the amendment to the amendment is that unless a charge of 2 per cent upon the emergency currency issued under this bill the banks of the country are not going to pay 2 per cent on the daily balances they are now paying the Government. In other words, in the bill that we now have under consideration we provide that 75 per cent of a bank's capital and surplus may be loaned upon commercial paper.

Mr. POMERENE. Mr. President, may I remind the Senator that under the Federal reserve act all the public funds will be deposited in the various regional reserve banks without any interest whatsoever, and all the earnings of those banks, after the payment of the dividends on stock and expenses, will go to the Government.

Mr. SMOOT. I am perfectly aware of that, but I am speaking not only of the national banks that are now or will be members, but, as I understand, there will be an amendment offered to this bill extending the privilege of joining these associations to State banks.

Mr. President, in considering this bill I want to call attention to what I believe will be the result in the case of any bank that really wants to avail itself of the emergency currency. The Overman amendment allows for three months the use of emergency currency at 1 per cent per annum. What will be the working of it if passed? What will the banks of the country do under this amendment?

In my opinion, it will be nothing more nor less than a three months' loan at 1 per cent per annum for this reason: The banks will have ample commercial paper. They will make use of the full amount under this law, and it will be for three months at 1 per cent. At the end of three months that emergency currency will be paid and then additional or other emergency currency taken out with new security—commercial paper—as the basis of the issue.

For that reason, Mr. President, I believe——

Mr. WEST. Mr. President——

Mr. SMOOT. In just a moment. I believe it would be very much better to provide a rate at least what the banks have been willing to pay to the Government of the United States on daily balances. I now yield to the Senator from Georgia.

Mr. WEST. Does the Senator think that they would take up this paper and go back and have new notes issued instead of the half a cent a month?

Mr. SMOOT. Additional?

Mr. WEST. Additional.

Mr. SMOOT. Of course. I certainly do.

Not only that, but what I am fearful of is that unless it is 2 per cent it will be a regular thing for the banks to take out this currency. Why not? Many of the banks in different parts of the country pay 4 per cent on savings, and with the provisions now provided for, allowing the issue upon commercial paper, they can make a regular business of it if it is only 1 per cent. That is not the object of emergency currency nor should any amendment be agreed to that will accomplish this.

I ask the Senator introducing the amendment if, taking that into consideration, he does not think it would be better to have the rate fixed at 2 per cent?

Mr. OVERMAN. After consideration and talking with my colleagues about it, in order to have it uniform, inasmuch as they are paying 2 per cent on balances to-day, and I hope the amendment which will be offered by the Senator from Georgia [Mr. SMITH] will be agreed to to bring the State banks into these reserve associations, allowing them to come in and get some of this currency, I am willing to accept that amendment. I believe, taking it into consideration, it is better to have uniformity in the deposits of the general funds in the banks with this currency, and I will accept the amendment to make it 2 per cent.

The VICE PRESIDENT. The Chair wants to call attention to the fact that the amendment proposed by the Senator from Utah and accepted by the Senator from North Carolina is only on line 7, page 1, of the amendment, and the word "one" also occurs on line 1, page 2, of the amendment.

Mr. SMOOT. That is right, Mr. President. I want the amendment to apply all through.

The VICE PRESIDENT. By the consent of the Senator from Utah and the Senator from North Carolina the Chair will state that the original amendment of the Senator from North Carolina has been modified so that on line 7 of page 1 the word "one" will read "two," and on page 2, line 1, the word "one" will read "two."

Mr. OVERMAN. That is right.

The VICE PRESIDENT. The question is on the amendment of the Senator from North Carolina as modified.

Mr. SHAFROTH. Mr. President——

Mr. OVERMAN. One minute. To make it further conform I will strike out the proviso on page 3 of the amendment.

Mr. REED. Is the Senator from North Carolina accepting the amendment to his amendment?

Mr. OVERMAN. I accept the amendment making it 2 per cent, and strike out the proviso on page 3.

The VICE PRESIDENT. So the amendment proposed by the Senator from North Carolina will end at the word "amended," on line 3, page 3.

Mr. SHAFROTH. Mr. President, I am astonished that the Senator from Utah [Mr. SMOOT], after having made the speech he did on yesterday against inflation by reason of the 80 per cent should have offered an amendment here which has a hundredfold more of inflation in it than the provision which was offered by the committee.

Mr. SMOOT. By raising the rate of interest from 1 to 2 per cent?

Mr. SHAFROTH. Yes, sir; or cutting down the rate from 3 per cent, which is the committee bill, to 2 per cent.

Mr. SMOOT. Oh, I am offering to reduce the rate in the pending amendment from 1 to 2.

Mr. SHAFROTH. That may be, but you are offering it as an amendment to the committee bill, the effect of which is to cut it down from 3 to 2 per cent.

Now, what would be the result of that? We know that the banks all over this country are paying on any loans of a nature that is of any length more than 2 per cent. They are paying 3 per cent and 2½ per cent. They are paying 2½ per cent and 2 per cent on daily balances. What will be the result? Every one of these banks will grab for this paper and you will get the entire amount of 125 per cent out in a comparatively short time.

Mr. OVERMAN. What is this bill for?

Mr. SHAFROTH. This bill is for the purpose of getting out money where it is needed, not to supply the place of currency for ordinary transactions.

Mr. OVERMAN. You want to make it as hard as possible to get it.

Mr. SHAFROTH. No; I do not.

Mr. OVERMAN. You want to make it so that it can not be gotten at all.

Mr. SHAFROTH. No. The bill was originally at 5 per cent.

Mr. OVERMAN. I understand that.

Mr. SHAFROTH. That was too high, I believe.

Mr. OVERMAN. That is absolutely prohibitory.

Mr. SHAFROTH. No; I do not think it is absolutely prohibitory. There are other causes that entered into the fact that the Aldrich-Vreeland bill was not availed of. The crisis was not on to the extent, at least, that it is now.

Another thing: Bankers were chary of going into the currency associations when one bank would have to guarantee the paper of another bank. All those things operated against the money coming out.

Mr. OVERMAN. The Senator from Colorado says this is inflation. I ask him if the difference between 3 per cent and 2 per cent will make inflation?

Mr. SHAFROTH. It will, yes; to some extent; in fact, there is grave apprehension that the rate as fixed at 3 per cent will produce considerable inflation.

Mr. OVERMAN. Then let us wipe out the whole thing and not issue any currency at all.

Mr. LANE. Mr. President, I would suggest to the Senator from North Carolina and the Senator from Colorado that they split the difference.

Mr. SHAFROTH. Mr. President, I believe that when you offer to the national banks of this country a lower rate than they are themselves paying for deposits you are going to have money transferred from the Government to them to a greater extent than it seems to me the exigencies of the case require; in fact, it would not be considered an emergency matter; it would resolve itself into the mere matter of making money upon the part of the banks. Whenever they can make money by reason——

Mr. THOMAS. Mr. President——

Mr. SHAFROTH. Just one moment. Whenever the banks can make money by reason of getting from the Government money cheaper than they can obtain it elsewhere, then it becomes a mere matter of making money in a legitimate transaction; but when you attempt to make the rate such that the banks will be required to sacrifice something to obtain money, perhaps fixing a little higher rate than that which they are themselves paying, the money will not go out unless there is an emergency requiring it. Money is going out now at 3 per cent; $250,000,000 has been issued by the Government. There is no reason why that should not continue. That is safe and salutary.

Mr. OVERMAN and Mr. THOMAS addressed the Chair.

Mr. SHAFROTH. I yield to the Senator from Colorado.

Mr. THOMAS. Is it not a fact that the effect of this reduction of the rate will be simply to present the bankers of the country with 1 per cent interest, which they otherwise would be required to pay?

Mr. SHAFROTH. I think that would be one of the results; yes.

Mr. THOMAS. Let me ask the Senator how it can benefit the man who needs the money and wants to borrow it?

Mr. SHAFROTH. It does not, except to the extent of supplying a larger circulating medium, which always has a tendency all over the country to lower interest charges.

Mr. THOMAS. But that will be supplied, will it not, if the committee amendment is adopted?

Mr. SHAFROTH. I think that will be supplied in sufficient quantity. The questions involved in the establishment of a financial system require great study and deliberation. You can make a law which will be absolutely nonoperative or you can make a law that will go to an extreme the other way. It is not best to have extremes in any condition, especially in a financial system. Here, however, is a rate of 3 per cent fixed, and we find the banks are availing themselves of it. The Treasury Department wanted, for the benefit of the country banks that do not have bonds to put up as security for the issuance of this currency, to increase the amount of currency they could take out on commercial paper from 30 per cent to 75 per cent, so as to let the country banks avail themselves of the privilege. Most of this money is going to New York, to the great commercial centers. We want to get it out to the country banks, but the rate of 3 per cent is being availed of even in New York City, where call money often gets to 1 per cent.

Mr. OVERMAN. That is the point I make: that it is being availed of by the banks in the great centers which have bonds to deposit as security, but the country banks will never pay the high tax of 3 per cent.

Mr. SHAFROTH. The country banks, as a usual rule, charge a higher rate than 3 per cent interest, and they usually pay on deposits a higher rate than do the city banks. The New York banks pay the very lowest rate of interest of any banks in the world.

Mr. MARTINE of New Jersey. Mr. President, I want to ask the Senator from North Carolina if he does not think the banks would lend this money out again at not less than 6 per cent interest?

Mr. OVERMAN. Some banks have been loaning money to the farmers at from 8 to 10 per cent interest.

Mr. MARTINE of New Jersey. Very well; so they will get it at 1 per cent less under the Senator's amendment, and that will merely be increasing their profits.

Mr. OVERMAN. I have a better opinion than that of the bankers of my State, though I do not know much about them in New Jersey.

Mr. MARTINE of New Jersey. I have no better opinion of the bankers than I have of any other class, but I know there is something in money dealing which tends to make men avaricious, and no matter how wealthy they become the bankers are inclined to exact the last cent, the last farthing. I do not want to allow them any larger opportunities. God knows they have been fostered heretofore quite enough.

Mr. OVERMAN. Can the banks not afford to loan the money out at 1 per cent less if they get it at 1 per cent less?

Mr. MARTINE of New Jersey. They will not do so whether or not they get it at 1 per cent less. The bankers of North Carolina, the Senator will find, are just as human as are the bankers everywhere else.

Mr. SHAFROTH. Mr. President, bankers might be able to loan this money at 1 per cent less if they get it at 1 per cent less, but you will find that the price of money is going to be controlled by the law of supply and demand; the rate of interest is going to be determined by that law, and no matter at what rate the bank gets the money, if it gets it for nothing, it is going to loan it out at just as high a rate of interest as the demand will justify. Consequently, as my colleague [Mr. THOMAS] has said, it will be practically giving the bankers one more per cent out of which they can make more money.

Mr. President, when the banks lend this money out at 6 per cent or 8 per cent they can afford to pay 3 per cent for it. If they can not afford to pay 3 per cent for it, that shows that there is no emergency; that shows that this is not the time to invoke the provisions of the Aldrich-Vreeland Act.

On that account it seems to me that inasmuch as we are trying the experiment now—and these laws are all experiments—and we find that it is working at present and that the banks are taking out money at 3 per cent, which indicates, to my mind, that there is an existing emergency, what is the use of cutting the rate to 2 per cent, and, as the Senator from Utah [Mr. SMOOT] says with relation to the proposition of 1 per cent—but which I apply to the rate of 2 per cent—requiring the banks to make these absolute loans of 90 days and then require the return of the money and loan the money again, because they will not pay any more than they have to pay?

Mr. President, it seems to me that we ought to be careful. I have talked with the members of the Federal Reserve Board. They think that 3 per cent is too low a rate; that is their opinion with relation to it; but I think we had better try 3 per cent—we tried 5 per cent and it did not work; the Aldrich-Vreeland law did not operate—but when you fix a 3 per cent rate, as the law is now, we find that it will work; that the banks generally are asking for the money, and we find that the country banks also are asking for it. They say they can not get it because they have not the bonds which are required as security, but that they have commercial paper. I think that the limit of 75 per cent—I should have preferred 80 per cent—would enable the country banks to avail themselves of the privilege of securing this currency and at the same time be a wholesome measure to relieve panicky conditions.

Mr. OVERMAN. Mr. President, I do not take my orders from the Federal Reserve Board. I, too, talked with the Federal Reserve Board, but they did not satisfy me that the rate of interest ought not to be reduced.

Speaking of the inflation of the currency, the truth is that you have the cart before the horse. You provide a rate of 3 per cent for the first three months, then of one-half of 1 per cent after that for six months until the rate reaches 6 per cent. It is like the fellow who went into a barber shop and asked what they would charge him for a shave. He was told that for the first shave the charge would be 15 cents, for the next shave 10 cents, and for the third shave it would be 5 cents. Then he said, "I will take the third shave, for 5 cents." [Laughter.]

Mr. REED. Mr. President, the Senator has that wrong. The rate is an additional one-half per cent per month after the first three months.

Mr. OVERMAN. I understand that; it reaches 6 per cent; that is what I said.

Mr. REED. Then you would not gain anything by having the third shave.

Mr. OVERMAN. The third shave is only one-half per cent.

Mr. REED. The third shave is one-half per cent plus 3 per cent.

Mr. OVERMAN. What it ought to be is nothing for the first three months and 2 per cent for the fourth month.

England has issued $500,000,000 of currency lately without any tax on it at all, and made the rate of interest 5 per cent. No man can charge more than 5 per cent. When this amendment is adopted I propose to offer an amendment enacting a usury law, so far as it affects our southern country, providing that bankers shall not loan this money at a greater rate than 6 per cent. That is my purpose. If we get that amendment, it will be what we have had in North Carolina for 20 years. It was predicted that the money would go out of the State of North Carolina when we fixed the legal rate of interest at 6 per cent. It was predicted that the money would leave North Carolina and would go to South Carolina, where they charge 8 per cent, or to Texas, where they charge 10 per cent; but the result has been that in our State the farmers pay 6 per cent, except where the national banks are making it 8 per cent. I should like to write it in the national law that for the next 12 months no bank in the South should charge a greater rate of interest than 6 per cent.

Mr. POMERENE. Mr. President, if we change this rate of interest, and do it forthwith as an emergency measure, does the Senator feel that it would decrease or increase the deposits of the banks?

Mr. OVERMAN. It will increase the money for people to borrow. The cotton people in my country can not get the money from the banks to-day. They want the currency, but the banks are not taking this currency. As was shown here yesterday, this money is being taken by the great centers, such as New York, and then being loaned in the South for 4, 5, and 6 per cent. The southern people are not getting it at all in the first place. They can not get it on account of the rate of tax on it; the banks in my State can not afford to take it and handle it and loan it at the legal rate.

Mr. McLEAN. Mr. President, I should like to ask the Senator from North Carolina if the cotton growers in the South want currency or credit?

Mr. OVERMAN. They want both.

Mr. McLEAN. Do they not want credit?

Mr. OVERMAN. Yes; they want credit and currency, too. If they get the currency, they can get the credit.

Mr. McLEAN. Are we not intermingling the two in our treatment of this subject? I do not believe that there is any scarcity of cash to supply any need that the South may have.

Mr. OVERMAN. There is where the Senator is mistaken.

Mr. McLEAN. As I understand, if the Senator will pardon me, the shipments of gold abroad in June and July amounted to more than a hundred million dollars. That amount was furnished by the New York banks through the use of the gold certificates. Those certificates were brought on to Washington and the gold was shipped. Of course that has made an artificial or a temporary stringency in centers like New York and the big reserve cities. They have lost just so much cash which ordinarily they would have on hand to send to the country. It is merely to meet that temporary draft, as I understand, that this legislation is essential.

Mr. OVERMAN. Yes; but the southern people have been trying to get their discounts in New York City pending the reserve board organization, but they can not do so; the New York banks will not let them have it, and what are they going to do for money?

Mr. McLEAN. I do not believe that is a lack of cash.

Mr. OVERMAN. That is exactly what it is.

Mr. McLEAN. It is a demand for the extension of credit. It must be borne in mind that this money can not be used as bank reserves; it can not be used for the basis of new credits. The banks of New York want this money to send to the front, possibly into the country, to meet temporary demands, in order that they may use the funds which they can use as reserves.

Mr. OVERMAN. That is the trouble. They have not been sending it to us. Why should not our people get this currency as well as the New York banks?

Mr. McLEAN. Mr. President, there are nearly $4,000,000,000 in cash in this country to-day.

Mr. OVERMAN. But the banks will not let it get out.

Mr. McLEAN. There is a surplus of cash to-day. England, with $200,000,000 of gold, did a larger business last year than we did with more than a billion dollars in gold. There is not a scarcity of cash in this country.

Mr. OVERMAN. According to the Senator's argument, we do not need any legislation at all.

Mr. McLEAN. Oh, no——

Mr. OVERMAN. We do not need any emergency currency.

Mr. McLEAN. What we want is to take care of the credits. What the South wants is a customer for its cotton; it wants a price. For instance, the railroads——

Mr. OVERMAN. The Senator knows nothing about the situation in the South. When I was at home a few days ago a man in my home county took a bale of cotton to the cotton mill to sell it. He was a poor tenant and wanted some money, but could not get any offer for it at all.

Mr. McLEAN. If the Government of the United States would peg the price of cotton at 15 cents a pound, every pound you have in the South could be sold to-morrow for 14½ cents a pound, and the cash would be forthcoming.

Mr. OVERMAN. Cotton is not selling at all.

Mr. McLEAN. That is the trouble; you have not the customers.

Mr. OVERMAN. We have that which means money and which is as good as gold, and that is cotton. If we could take that cotton and secure certificates for it, the Secretary of the Treasury, under his ruling, would issue currency on it.

Mr. McLEAN. That is the trouble; you have no purchaser.

Mr. OVERMAN. We have plenty of customers, and there are many people who want to hold cotton.

Mr. McLEAN. Mr. President, the railroads of this country to-day want $500,000,000 to finance the roads so that they can accommodate their traffic. They can not get the money. I say money, but it is not cash they want; it is credit. If the Government would guarantee $500,000,000 of railroad bonds at 4½ per cent, the credit would appear in less than 24 hours.

Mr. OVERMAN. Who pays the tax on this money?

Mr. McLEAN. That does not seem to me material.

Mr. OVERMAN. The borrower pays it, does he not?

Mr. McLEAN. I think we ought not to lose sight of the real use this currency can be put to. It can not be used as a basis for new loans. Consequently the banks call it "dead cash," because the other reserves that they have they can turn in and increase their loans five or eight times. The banks do not want this money except for temporary use, unless you let them have it under conditions so that they can make a profit by peddling out the cash, as they can do if they can get it from the Government for less than 2 per cent.

Mr. OVERMAN. If they can get it for 2 per cent, is there any reason why they should pay 3 per cent?

Mr. McLEAN. I think that the tax should be at least 3 per cent.

Mr. OVERMAN. Why?

Mr. McLEAN. Because otherwise, as the Senator from Colorado has suggested, there would be a temptation to go into the business of getting money from the Government for 2 per cent and peddling it out when they do not need it, and they will not use a dollar of the money that ought to be used, and that is the gold and the money that is suitable for reserves. I think that the matter was very carefully considered by the committee, and, in my judgment, we will make a mistake if we reduce the tax and extend this temptation.

Mr. OVERMAN. I had a letter from one of the leading financiers of this country, who is known far and wide, and he said there ought never to have been any tax on it for the first three months. He wrote me a letter and said he favored my amendment. I have resolutions passed by farmers' and manufacturers' associations asking that this tax be reduced. It looks as if the people want it done. They want the money and they want the tax reduced, because they know they will have to pay it.

Mr. McLEAN. They do not need extra cash. The trouble is that confidence—credit—has been suppressed for the time being.

Mr. OVERMAN. That is the time when you want the money.

Mr. McLEAN. You do not want cash, but you want credit. There is the trouble, and you are mixing the two. There is more than enough cash. If confidence were restored on the instant, plenty of cash would be forthcoming.

Mr. VARDAMAN. Mr. President, I should like to ask the Senator if that is true—if we do not need this currency, then why pass this bill? Why make any provision at all to meet the situation?

Mr. McLEAN. As I have stated in colloquy with the Senator from North Carolina, owing to the great drafts upon our gold supply in June and July the central banks have had to give up their gold certificates and get gold from Washington to send to Europe. Now, the country banks at a time like this of course are frightened, and they are calling on the central reserve banks for cash. They have probably got their vaults full, as it is, but they do not want to use the money in their vaults, for that is reserve money. They want to get emergency currency; they want this currency, which can be obtained cheaper, and they want to keep their reserves.

Mr. VARDAMAN. Why, then, put a tax on the currency which you are going to give them? Will they not be able to loan it to the farmer and the merchant cheaper if they do not have to pay a tax on it?

Mr. McLEAN. No; a tax should be put upon it, so that it will be retired and gotten out of the way.

Mr. VARDAMAN. It will be retired under the terms of the Senator's amendment after three months.

Mr. McLEAN. Possibly it would be and possibly it would not be. If we make it to the advantage of the banks to keep their reserve money, and use nothing but this emergency currency, they might be tempted to go too far. There is very little danger of inflation under this bill as it was reported from the committee, because it is, as I have said, dead cash; it is not useful for the purpose of issuing new loans, and the banks will get rid of it just as quickly as they can.

Mr. VARDAMAN. Now, if the Senator will pardon me, the farmer takes to the bank warehouse receipts for 10 bales of cotton, and the bank uses that as security upon which to issue money, and the money issued upon the security is given to the farmer, with which he pays the merchant, and the merchant pays his debts, and transactions and business are facilitated in that way.

Mr. McLEAN. I will say to the Senator that, so far as the need for cash is concerned, there is cash enough in this country to-day to transact four times the business that we do. There is no scarcity of cash. Cash is hoarded at a time like this and the bankers keep the gold certificates and the reserve money, and they will reach out for a substitute. That is human nature.

Mr. VARDAMAN. Then, if I understand the Senator's argument, it leads to the inevitable conclusion that this law is not at all necessary.

Mr. McLEAN. No; I do not say that. I say that to meet this temporary stringency in the centers, the country banks calling for their reserves and holding on to every dollar they have, it is right and proper that they should be supplied with this bank-note currency, in order that they may——

Mr. VARDAMAN. I thought the Senator said that there was a plethora, an exuberance, an excess of money.

Mr. McLEAN. There will be the moment you restore confidence; and the only way you can restore confidence is to give the large centers the use of this money temporarily. The Senator does not question the fact that if there was a market for the cotton, if there was a demand, a fixed value, there would be no question about what price it would bring.

Mr. VARDAMAN. Oh, absolutely, I do not; no.

Mr. McLEAN. So I say it is a matter of credit we must provide for.

Mr. VARDAMAN. If that be the case, why pass the bill at all?

Mr. McLEAN. I tried to make it clear that temporarily it is a wise thing to do——

Mr. VARDAMAN. But the Senator is not logical, I respectfully submit.

Mr. McLEAN (continuing). For the purpose of restoring confidence and restoring credit. The minute we do that this money will go out of sight and the cash that is now being held back will come to the front.

Mr. SMITH of Georgia. Mr. President, I agree with the view of the Senator from Connecticut that there has been a need of an enlarged currency in the centers, but I think he misapprehends the condition in at least a part of the rural sections. It is not simply a lack of credit; it is a lack of currency also. The lack of the normal use of exchange, which takes the place of currency in settling obligations, has placed an increased tax upon currency in certain sections of the country.

I wish to call attention to the condition as it exists in about one-fourth of the United States, and I am glad to have the Senator from Connecticut hear it. As he is at least partially aware—it is scarcely possible for anyone to be fully aware of it who does not live in the midst of it—we raise in 12 of the States a crop worth a billion dollars a year. We spend a considerable part of its value in producing the crop. That crop comes upon the market from about the last of August to the first of December. Pending the production of that crop the banks are taxed to extend credits to the farmers who produce

it and to the merchants who supply the farmers. They use all their currency and use all their credit that they think is safe to obtain additional currency to facilitate the work of the farmer in producing his crop. Now, crop-gathering time comes. The farmer usually finds an immediate demand for the first cotton he brings to town, and the bulk of his crop is gathered by the sale of the first. There is no demand for cotton now, that is true, and he goes to his banker and wishes some additional extension of credit and some additional currency.

Mr. McLEAN. Yes.

Mr. SMITH of Georgia. It is not simply a matter of credit.

Mr. McLEAN. You had this same condition in the South last year.

Mr SMITH of Georgia. Not at all.

Mr. McLEAN. I mean, you had your crop of cotton and the same financial requirements, and you had no trouble in getting all the cash you wanted. Why?

Mr. VARDAMAN. Mr. President, will the Senator yield to me for just one moment?

Mr. SMITH of Georgia. I yield to the Senator, although I would rather go on.

Mr. VARDAMAN. I simply wish to say that at one time it looked as though we were going to have a panic, so that we could not get money to move the cotton of the South, when the Secretary of the Treasury came in and said to the bankers, "You have not a monopoly of money. If you do not let them have it, I will."

Mr. McLEAN. True; but I will ask the Senator from Georgia if he does not think that one hundred and fifty to two hundred millions of dollars is sufficient to meet all of the extraordinary demands for cash in any season? Has it not been so?

Mr. SMITH of Georgia. In a normal season, yes; but this is not a normal condition.

Mr. McLEAN. But you have the same amount of cash.

Mr. SMITH of Georgia. But we have an additional demand for it, for the cash itself.

Mr. McLEAN. On the contrary, Mr. President, there is a restricted demand for cash to-day. The pay rolls are smaller than they were last year at this time, very much smaller. The actual necessity for cash money to-day is millions of dollars less than it was a year ago.

Mr. SMITH of Georgia. Now, Mr. President, I want to go one step further. The difficulty about our present plan of an emergency currency is that it reaches only the centers upon which pressure exists, and does not reach another part of the country where pressure also exists.

Mr. McLEAN rose.

Mr. SMITH of Georgia. One moment; then I shall be glad to hear from the Senator. I shall offer an amendment providing that the terms of the Vreeland-Aldrich bill shall extend to State banks. Just as the Senator has described the need of relief in the financial centers, so an extension of the emergency currency to State banks will relieve the pressure in another part of the country.

Now, a State banker—a small banker in one sense, and yet quite a good-sized banker, considering the population of the little city in which he lives—with $50,000 capital and $250,000 surplus, indicating that he had managed it well, in one of the richest agricultural counties in the State of Georgia, with ample securities, not of the kind usually taken by national banks, finds on the 1st of September that he has extended and furnished to his farm customers all of the currency that he feels justified in furnishing. That is the period of the year when money ordinarily begins to flow back to his bank, and he had anticipated that it would flow back this year; and it would have been flowing back to him rapidly but for the European war. In 60 days he would have had more money than he needed in normal times; but his customers find that their great commodity—their commodity which brought to this country last year $610,000,000 of foreign gold, intrinsically worth as much as ever, a commodity that lasts permanently if cared for at all, that is as good to spin when 50 years old as it is when 12 months old, a commodity that certainly will be in demand to clothe the world a little later on—temporarily has its market cut off. Now, the banker is appealed to. The security is good. The farmers themselves own their farms, and are good. He is appealed to for a small amount of additional money.

Mr. McLEAN. Credit.

Mr. SMITH of Georgia. He needs money to pay the pickers and to go and buy some more provisions and carry these people over.

Mr. McLEAN. That does not buy the cotton. What you want is a purchaser.

Mr. SMITH of Georgia. We are not proposing to buy the cotton now. We are proposing to keep the cotton from being sacrificed and being gobbled up because of the temporary necessities of the people who own it. That is what we are proposing to do. Of course, they could get some money if they would give away their cotton at half the cost of producing it, and then be broken in consequence; but I shall offer an amendment extending the privileges of this bill to the State bankers. What will be the consequence?

Take this particular illustration, because we can best understand the operation of a law by applying it to a particular case. This banker will have the privilege at once of obtaining $150,000—the privilege of issuing his own notes. If he had the privilege to-day of issuing the notes of his bank for circulation, they would circulate. His credit is so good that the notes of that bank would circulate in that county, and would be used as currency, and would pay the cotton picker, and would be taken in the store; but a 10 per cent tax excludes him from that privilege. The privilege of creating a currency himself by issuing the notes of his own bank, which would meet the exigency that confronts him, is cut off by the 10 per cent tax provision. I do not know that I think it was constitutional, but I think it was wise, and I am not in favor of the promiscuous issue of paper money for currency, and I would not vote generally to repeal that statute.

Mr. McLEAN. The Senator must not understand that I am opposed to the issuing of this currency. I am heartily in favor of it. I believe it is better currency than our national-bank notes to-day, for certain purposes. My only point is that we can print it by the cartload and it will not permanently remedy the situation.

Mr. SMITH of Georgia. I agree with the Senator about that. I agree that if you printed it by the cartload you would do more harm than you would do good. I am as much opposed to an unsound currency as is the Senator from Connecticut; but what I was seeking to present, in answer to his view, was that it is not simply a question of lack of credit; it is a question in the rural sections of a lack of currency just as much as it is a lack of currency with the big banks in the big cities.

Mr. McLEAN. But a restoration of credit would produce currency. You do not have to print new money if you restore your credit; and there is only one way in which you can restore your credit.

Mr. SMITH of Georgia. Then why let the big banks in the cities have it at all? Why not help this difficulty in the country just as much as in the cities? The Senator's own argument justifies the issue of this additional currency to relieve a stringency in the large centers.

Mr. McLEAN. Yes; and I favor it; but I say that beyond a certain amount, two or three hundred million dollars, it will not do a particle of good. The country banks will keep their reserves as long as the present crisis exists. They will not loan their money for less than 7 or 8 per cent, and then they want the very best security. The amount of cash they have in their vaults amounts to nothing to a man who goes to a bank to get a loan without the requisite credit.

Mr. SMITH of Georgia. But they have the requisite credit with their local banks in our section. The local banks desire to advance to them additional currency.

Mr. McLEAN. Not currency.

Mr. SMITH of Georgia. Yes, currency; because they have to take the money out and actually pay it day by day to hire the picking of their cotton.

Mr. McLEAN. Oh, yes; but that is an infinitesimal amount——

Mr. SMITH of Georgia. The Senator is mistaken about that.

Mr. McLEAN (continuing). Compared with what we propose to do here. A billion dollars of this money is being authorized.

Mr. SMITH of Georgia. Now, this is what we wish added—I do not care so much for the 2 or 3 per cent tax; but this is the provision that I am going to offer, although I think the 2 per cent tax is enough:

That the provisions and benefits of the act approved May 30, 1908, known as the Vreeland-Aldrich Act, and the amendments thereto, are hereby extended to all State banks and trust companies having a capital stock of not less than $25,000 and a surplus of 20 per cent. Said banks and trust companies shall be required to pay upon notes so issued the tax provided for in said act and the amendments thereto, and said notes shall not be subject to the provisions of the act of Congress approved February 8, 1875, known as "An act to amend existing customs and internal-revenue laws, and for other purposes." The Secretary of the Treasury is hereby directed to make such rules and regulations as are necessary for the purpose of carrying out the foregoing provision.

Mr. BURTON. Will the Senator from Georgia yield to me for a question?

Mr. SMITH of Georgia. Yes.

Mr. BURTON. What does the proposed amendment of the Senator add to the proviso in the act approved August 4, 1914?

Mr. SMITH of Georgia. The Treasury Department held, under that amendment, that the 10 per cent tax still remained, and that if the State banks had a note issue under that provision they must pay the Vreeland-Aldrich tax and the 10 per cent tax, also. I think the opinion was unsound.

Mr. BURTON. Such a ruling as that has been made, has it?

Mr. SMITH of Georgia. So I understand; so the banks were advised.

Mr. BURTON. Otherwise there would be no occasion for this amendment.

Mr. SMITH of Georgia. Not at all. A number of banks in my State promptly joined the Federal Reserve Association for the purpose of obtaining the benefits of that act; and they were advised that that act did not suspend, as to these notes, the 10 per cent tax of the act of 1875. The only purpose of the amendment I intend to offer is so to express the provision we passed on August 4 that it shall be what I think we meant it to be.

I cordially support the view of the Senator from Connecticut that our currency should be sound, that there should be no wild inflation, that there should be no paper inflation. I am perfectly in accord with that view. I am in accord with the general line of thought he presents. The effect of this amendment, however, will be really to furnish currency where currency is needed. Where I take issue with him is that in these localities it is not credit that is wanted. The men who want currency have credit with their local banks. Their local banks are ready to give them credit. Their local banks could go off and borrow money, but they would have to pay such exorbitant prices for it that they are unwilling to do so.

Mr. McLEAN. Mr. President, does not the Senator from Georgia think the tax on this money ought to be more than 2 per cent?

Mr. SMITH of Georgia. I certainly would have it more than 2 per cent if it stayed out for any considerable length of time.

Mr. McLEAN. But if we carry it on to the State banks, does not the Senator think there would be grave danger of its remaining there?

Mr. SMITH of Georgia. If this were a permanent bill, I would say yes. This bill is limited to the 1st of next July. It dies then, and the tax increases after three months at one-half per cent a month, and the notes can not remain in circulation any considerable length of time.

The great need just at this time in the 12 cotton States to which I referred is currency for the next 60 or 90 days, for the next three months, until the cotton picking is completed, until the cotton is properly warehoused, until cotton takes its place in a warehouse where a warehouse certificate makes it the basis of general credit. To-day the farmer has no credit outside of his home. His paper would not be good in Atlanta. I am still illustrating by the place to which I referred.

But his paper is good with his home bank. There he is known. The value of his farm and its productiveness is known. The home bank will take a bill of sale for 100 bales of cotton from him and leave the cotton with him, having done business with him perhaps for 25 years, and having absolute confidence that that cotton will be forthcoming to meet that bill of sale.

Mr. McLEAN. Certainly; and no cash is used in that transaction.

Mr. SMITH of Georgia. Absolutely none, because the bank takes a bill of sale. It costs the farmer $10 a bale to harvest his crop. That is the great pressure with us. It is to carry the farmers for the next 90 days, until they get their cotton gathered and get it properly warehoused and have obtained a warehouse certificate, and then the farmer can go to Atlanta or he can go to New York and borrow on it. Of course, the further problem of a market for the cotton is most important.

Mr. SMOOT. In this connection I wish to say that if the Vreeland-Aldrich Act is extended from July 1, 1915, and the conditions are normal in this country I certainly would insist upon the rate of interest being more than 2 per cent before it is extended. I look at the rate of 2 per cent as being simply to meet the present unfortunate conditions in this country and in the world. It can not last longer, as the Senator from Georgia says, than until July 1, 1915.

Mr. SMITH of Michigan. The law might be extended after that time. It could easily be done by a joint resolution if Congress desired.

Mr. SMOOT. I think it will be extended, but I simply say that if it is extended I think if conditions are then normal in the country the interest ought to be increased from 2 per cent.

Mr. WEST. Mr. President, for the benefit of the Senator from Connecticut [Mr. McLEAN] I desire to say a few words in order to show the necessity of currency in our section of the country at this particular time.

It is well known that most of the farmers—for I am one of them—get credit for the year from the merchants. They have their guano bills to pay. The guano companies either credit them for the amount or the farmer gets the money from the bank and pays for his guano. Generally it is bought on the credit system.

As I said a few minutes ago, it takes about a third of the price of the cotton at present prices to pay for the picking of it. The cotton upon which this money is predicated, so to speak, until you get away down below the cost price of it, is as good as gold. The farmer goes there and gets the money, say 70 or 75 per cent of the market value of the product—the cotton. He relieves to a certain extent the merchant. The merchant has borrowed from the bank. He relieves to that extent the bank.

Now and then the farmer is unable to get the money, and he must have the money to pay the cotton picker. He is unable to get anything to pay his debts in the stores. Those have accumulated; and the merchants must have money to pay the banks where they have borrowed it during the year in order to carry supplies to furnish the farmers.

That is the situation in the South to-day. It takes millions of money. The bank in the ordinary way has not the third of the money to supply the farmer to get his cotton out and get something on it unless he can sell some portion of it. If the farmers must hold on to this cotton, they can not do anything. They must fail to pay the merchants, must fail to get the money from the bank in order to pick their cotton, and much of their cotton must inevitably stay in the field and rot.

Mr. McLEAN. I wish to ask the Senator if cotton in the South to-day sold for 18 cents a pound would there be any difficulty in getting all the cash in the Southern States necessary to handle it?

Mr. WEST. Absolutely; there would be no trouble, because that 18 cents would go to pay the merchant, and he in turn would pay the bank.

Mr. McLEAN. But not in cash. It is not the scarcity of cash in the country; it is the scarcity of credit and confidence. You have no customer, and that is the trouble. Of course Congress ought to do everything it can to restore confidence and to help sustain the price of the products of the country. My point is that it will not be done by printing paper promises to pay. You have plenty of it now. The trouble is that you have no credit.

Mr. WEST. The trouble the Senator does not see. We have already had the credit, and we want some money in order to put it in circulation that it may go back to the banks and that the money may go to the farmer, and in turn that it may go to the merchant.

In addition to that, the farmer needs the money in order to gather his cotton. If he can not get the money, then the cotton must stay in the field. Credit does him no good. He may be ever so able; he may have thousands of acres of unencumbered land; and yet if he can not get the money in order to pick his cotton and gather it from the field it does him no good.

Mr. LEE of Maryland. Mr. President, I should like to call the attention of the Senate to the inconsistency, if I may so describe it, of the amending tendency with respect to this bill. The Treasury Department, acting upon the unanimous recommendation of the Federal Reserve Board, requested that the limit be raised to 80 per cent. That was the unanimous request of the Reserve Board, to create a supply of emergency currency. The Senate yesterday refused to grant that limit, and fixed the limit at 75 per cent.

Philosophically, if you reduce the supply you should make every effort to reduce the demand, whereas the contrary appears from the spirit of all these amendments, because if you reduce the rate of interest or the barrier penalty, you will inevitably increase the demand, and to a certain extent you may create it, as was pointed out by the Senator from Colorado [Mr. SHAFROTH] a few minutes ago. If you give enough profit to the banks under this or any financial situation, you will create a demand for the emergency currency.

So the action of the Senate in decreasing the supply of the emergency currency, and this proposed amendment to increase the number of banks which may demand it, and to increase the amount of interest that the banks may make by demanding the currency, are absolutely inconsistent.

Mr. SMITH of Georgia. Will the Senator permit me?

Mr. LEE of Maryland. Certainly.

Mr. SMITH of Georgia. What we wish is not to increase the amount to the national banks any further, but to permit the

additional increase through admitting the State banks to the same privilege. It would be inconsistent to object to going further than the national banks as to the line of increase. What we desire is to add the State banks to the same privilege.

Mr. LEE of Maryland. I am very sympathetic with the suggestion of the Senator—extremely sympathetic—because I believe in bringing in these small banks if they can be put in upon a solvent and well-inspected basis, and thus carrying forth this fertilizing system to the root of the cotton plant, to the root of the corn, to the places where it is needed. But this is an emergency situation of great significance. The warring European countries, even the most solvent of them, have declared moratoria against the collection of debts. It is a serious situation, and it has to be genuinely recognized as an emergency.

I was rather surprised that under the circumstances most of the gentlemen on the minority side of the Chamber yesterday seemed inclined to limit the supply of this currency available to 75 per cent rather than to 80 per cent; but this having been done it does look most unphilosophic, when the Treasury Department comes in and recommends a certain amount that they can call upon and fixes that amount at 80 per cent, for the Senate to cut down the available supply and at the same time increase the possible demand by reducing the barrier interest which the present law requires.

For that reason, with all respect and sympathy for the object of the Senators——

Mr. OVERMAN. The penalty is not reduced except that the period is extended only four months. The penalty under the amendment is the same, preventing inflation. The penalty under the original law is 6 per cent and the period 9 months. The penalty under my amendment is 13 months. That is the only difference.

Mr. LEE of Maryland. If the Senator will go back to the beginning, behind the action of yesterday, and increase the supply——

Mr. OVERMAN. I am talking about this amendment. The only difference is the extension of time from nine months to thirteen months, so far as the penalty is concerned. If the penalty is sufficient to prevent inflation, and the currency comes back in nine months, what is the trouble about extending it for four months? That is the only difference.

Mr. LEE of Maryland. The demand for this currency will be based somewhat upon the profit that can possibly be made by the utilization of the currency. In any event the Senator from North Carolina will admit that it is utterly unphilosophical to reduce the amount of an available currency from 80 per cent to 75 per cent, and at the same time increase the possible demand by taking down the interest barrier.

Mr. WEST. Mr. President——

The PRESIDING OFFICER (Mr. KERN in the chair). Does the Senator from Maryland yield to the Senator from Georgia?

Mr. LEE of Maryland. I yield the floor.

Mr. WEST. I should like to ask the Senator from Maryland a question before he takes his seat. He said a few moments ago it is at the rate of 3 per cent, making 12 per cent a year.

Mr. SHAFROTH. Oh, no; it is 3 per cent per annum; that is, for the first three months; and 1 per cent a month thereafter until it reaches 6 per cent.

Mr. WEST. I thought if it was that rate then, of course, the banks would take advantage of it.

Mr. SHAFROTH. It is 3 per cent per annum.

Mr. WEST. I want to say, while I am on my feet, that I am utterly opposed to an inflated currency, and it is only in this exigency that I think there should be as much currency in the South as can be obtained without having it unduly inflated and causing gold to come to a premium. It is now absolutely needed there, but, of course, we do not wish to inflate the currency in such a way that our gold will be at a premium.

Mr. REED. Mr. President, I want to discuss for a moment the amendment now pending. I do not want to discuss the other amendments which will come up in due course. Most of the argument this morning has borne upon other amendments than the one now under consideration.

The amendment under consideration proposes to reduce the tax for the first three months from 3 per cent, as named in the bill, to 2 per cent, the 3 per cent and 2 per cent being a per annum rate of interest. As originally introduced, the amendment provided for a reduction to 1 per cent. The question we are to discuss is, Should the interest be at the rate of 3 per cent for the first 90 days or should it be 2 per cent? That is all there is in this present amendment. I affirm that if you reduce the rate of interest from 3 per cent to 2 per cent you simply present the banks with 1 per cent additional profit. That is all there is to it. I think if Senators will bear with me I can demonstrate that that is the inevitable result, and that no other result is within the limits of possibility. I want to proceed to try and do that.

Mr. OVERMAN. Mr. President——

Mr. REED. I will yield to the Senator.

Mr. OVERMAN. The Government is not in the business of levying taxes on money to make money out of it.

Mr. REED. Mr. President, I think that is entirely aside from this question. The Government is in the business just now of issuing some emergency currency, and everyone understands that the tax which has been imposed has not primarily been for the purpose of profit, but for the purpose of a check and a safeguard.

Mr. OVERMAN. To make it hard for them to get it? That is the purpose?

Mr. REED. To make it not hard for them to get it, but to remove the temptation to get it improvidently, and to compel the return of it to the Government within a reasonable time.

Mr. OVERMAN. So far as that is concerned, the penalty is the same except as to the time.

Mr. REED. No; the penalty is not the same. The Senator is not speaking with his usual accuracy.

Mr. OVERMAN. Now, Mr. President——

Mr. REED. If I can start borrowing money for the first 90 days at 2 per cent and thereafter we increase the penalty one-half per cent a month, the situation is not the same as it would be if I start at 3 per cent with an increase of a half per cent a month, because whatever period of time I keep the money out under the first plan, I will get it cheaper than I do under the latter plan.

Mr. OVERMAN. The only difference is the difference between the period of 9 months and 12 months. The penalty will be the same at the end of 12 months under my amendment.

Mr. REED. The interest will be the same at the end of 12 months, but the average rate of interest for 12 months will not be the same. There is no use to try to argue around the cold mathematical problem.

Mr. SHAFROTH. I should like to ask the Senator from North Carolina what there is in this bill that will prevent a bank, after it has borrowed money under the terms of the bill, to come in at the end of 90 days and pay it and then get another loan?

Mr. OVERMAN. That is true in anything. There is no difference between it and the original law, is there?

Mr. SHAFROTH. It is the difference between 2 per cent and 3 per cent. That is all there is to it.

Mr. REED. All there is in this amendment is the difference between 2 per cent and 3 per cent. That is all there is to it.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. REED. I yield.

Mr. SIMMONS. If the Senator from Colorado [Mr. SHAFROTH] is right—and the Sentaor from Utah [Mr. SMOOT] has advanced the same idea—that the banks will take this money under the present bill for three months only, with interest, and at the end of three months they will come in and pay it up and borrow for two months more—if that is to be the practical working of the bill, tell me what good does the additional provision imposing half a cent a month at the end of three months do?

Mr. SHAFROTH. I can answer that, if the Senator from Missouri will permit me.

Mr. REED. I can answer that, if the Senator will permit me, since I have the floor. It is the additional penalty which compels them to come in or induces them to come in at the end of 90 days to settle; and the very purpose of that penalty is to induce them to come in and settle.

Mr. SIMMONS. At the end of 90 days.

Mr. REED. As soon as possible. As soon as they come in and settle and ask for an additional loan, then the Treasury Department can say whether or not they want to keep the money out; in other words, the Government gets the opportunity by means of retiring the money, and a bank that came in at the end of 90 days and paid up its debt would then, of course, have, the same as an ordinary customer of a bank, to take the chance of getting a renewal.

Mr. SIMMONS. The Senator thinks that in practical operation the result would be that the banks would generally come in at the end of three months and renew, so to speak, so as to get the benefit of the 3 per cent rate?

Mr. REED. I do not think so. I think that in practical operation the bank getting this money, if it found that it was necessary to go beyond the three-month period, would probably pay the additional rate for a time, because it is always contemplated that these loans are not to be permanent advance-

ments, and the probabilities are, I think, that the bank would pay the rate for the next 30 days, or it might be 60 days. I can not answer as to that any more than can the Senator from North Carolina.

Mr. SIMMONS. I agree entirely with the Senator from Missouri. I do not think that the result of the practical operation of the law would be what the Senator from Colorado and the Senator from Utah have indicated. I think at the end of three months, if the banks want this currency longer, they will pay the additional one-half per cent for the next month.

Mr. WILLIAMS. Mr. President, if the Senator will pardon me, I wish to suggest that 2 per cent per annum is one-sixth of 1 per cent per month, and when the penalty, as the other Senator from North Carolina calls it, is one-half of 1 per cent per month——

Mr. SIMMONS. There are two reasons——

Mr. WILLIAMS. There is a difference of two-sixths of 1 per cent, which, in a large transaction, is very considerable; but the statement that the Senator from Missouri has made, it seems to me, is an argument in favor of the amendment, because it is an argument tending to show that this currency, instead of being in circulation, would be paid up at the end of each three months, with the hope of getting another loan, so that the money would be withdrawn in three months. Thus the interest of the Government to prevent redundancy of the banks to make the most profit possible would run hand in hand.

Mr. REED. That was not my argument.

Mr. WILLIAMS. I say the state of expected facts proves just the opposite of what the Senator is trying to prove.

Mr. REED. Not if I made myself plain to the Senator.

Mr. WILLIAMS. If they will pay it up at the end of three months, the Government has the option whether it will then reloan the money or not.

Mr. REED. That is exactly what I said.

Mr. WILLIAMS. But when the Government has its option, and that particular loan is closed, that much money has been returned to the Treasury. The Treasury then can refuse further loan if enough currency is, in its opinion, afloat.

Mr. SIMMONS. That is exactly the opinion I expressed; and they would not return it at the end of the three months and take their chance of getting another loan, because they might not get it.

In the second place, probably the expense of closing the transaction and reopening it would be more than one-half of 1 per cent a month.

Mr. SMOOT. May I ask the Senator from North Carolina a question?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Utah for that purpose?

Mr. REED. I yield.

Mr. SMOOT. I wish to ask the Senator from North Carolina why banks could not get a renewal at the end of three months? What is there in the law that would prevent them from getting it?

Mr. SIMMONS. If the department felt that there was no longer an emergency calling for the issue of this currency, they might not extend the loan; they might exercise some indirect discretion not to continue the issue of this money.

Mr. SMOOT. There is nothing in the law giving them that power.

Mr. SIMMONS. I do not know whether or not there is anything in the law giving them that authority, though I am rather inclined to think there might be something in the law to that effect.

Mr. SMOOT. The only way in which that authority could be exercised would be that under the law, if they exceeded the limit, of course, the Secretary of the Treasury would refuse to make the loan.

Mr. SIMMONS. The Senator from Utah will admit that if a bank should settle up at the end of three months, so as to get the benefit of the lower rate of interest, if the banks of this country have reached the conclusion that there is no longer a necessity for this emergency currency, and that to continue it after the emergency has passed might result in inflation, when the application is made to the currency association to reborrow they might refuse their consent, and the application would never reach the Secretary of the Treasury.

Mr. SMOOT. Mr. President, I have nothing to say against the last proposition of the Senator; that is absolutely true; but it rests entirely with the currency association. If they do not approve the security offered by the bank asking for the loan, then, of course, the bank can not get the emergency currency; but I do not know of anything in the law that would prevent the bank from getting it.

Mr. SIMMONS. There is nothing in the law that would prevent it.

Mr. SHAFROTH. Mr. President, I can find no discretion in the act except as to the question of security, but this consideration might induce a bank to keep the currency out and pay the additional one-half of 1 per cent per month. If all of the emergency currency were issued, it might say, "If we surrender this currency, we can not get any at all." That, as a matter of fact, might have a tendency to keep the currency out, the bank paying one-half of 1 per cent a month additional as each month passes until the expiration of the time by statute.

Mr. SMOOT. That was the question I brought up in answer to what the Senator had said; and yet, Mr. President, we do know that if the whole amount of currency has been issued, and there is $500,000 returned by a bank which has borrowed it, the currency being replenished to that extent, that sum could again be borrowed.

Mr. REED. Mr. President, I wish merely to clear this matter up and then to resume at the point where I was interrupted, for I am exceedingly anxious, if possible, to get this bill to a vote. I think the debate has been quite long enough—of course there is no way to limit it—and we do not want to stay here all summer over this little bill.

There is not a dollar of this currency that any bank can demand as a matter of right; it is all within the discretion of the Secretary of the Treasury. He can issue it or he can refuse to issue it.

That is the answer to all the argument we have heard for the last 15 or 20 minutes. Here is the language of the law. Following a provision which states how the banks shall organize currency associations and how they shall make their application to the Comptroller of the Currency, there is a provision which I quote:

> The Comptroller of the Currency shall immediately transmit such application to the Secretary of the Treasury, with such recommendation as he thinks proper, and if, in the judgment of the Secretary of the Treasury, business conditions in the locality demand additional circulation, and if he is satisfied with the character and value of the securities proposed and that a lien in favor of the United States on the securities so deposited and on the assets of the banks composing the association will be amply sufficient for the protection of the United States, he may direct an issue of additional circulating notes to the association, on behalf of such bank, to an amount in his discretion, not, however, exceeding 75 per cent of the cash value of the securities so deposited.

The last clause has been modified by a subsequent amendment, but the others stand.

Now, Mr. President, winding up, if I may, this little side issue, of course a bank at the end of three months could bring to the Treasury the currency it had obtained and wind up the transaction with the Government, and then could secure a new issue of currency, and in that way escape the additional interest charge, always provided the Secretary of the Treasury saw fit to renew the issue, which he would not be very likely to do if he thought the bank was simply trying to beat the Government out of a little interest.

Mr. WEST. Could the bank obtain a new issue of currency on the same security it had deposited for the first issue?

Mr. REED. Undoubtedly. The bank could secure the currency by depositing any good securities, and if the securities it had on deposit were of the kind and character required, it could rehypothecate them.

Mr. WEST. I understand the Senator, then, to say that if the bank obtained the money at one-sixth of 1 per cent, saying it was 2 per cent per annum—that is, one-sixth of 1 per cent per month—after the expiration of three months, rather than pay the one-half per cent per month, it could pay up and use the same securities in order to get an extension of three months?

Mr. REED. The bank could do so if the Secretary of the Treasury saw fit to let it, but I think the Secretary would very promptly say, "That is not business; if you need this money, keep it and pay the additional half per cent."

Mr. President, the whole question, I state again, that is now before the Senate is whether we ought to start with a 2 per cent rate or a 3 per cent rate. I assert the proposition, and shall undertake to demonstrate it, that if we cut the rate of interest from 3 per cent to 2 per cent we shall simply present to the banks obtaining this money that 1 per cent, and that what we take off of the rate will accrue to the benefit of the banks and not for the benefit of the country. Any rate that is charged by the Government accrues to the benefit of all the people; it goes into the Treasury; while any reduction of that rate accrues to the benefit of the banks. That is the proposition I undertake to demonstrate, and I think a little thought upon that matter will lead Senators to concur in the opinion I have stated.

No bank can obtain of this currency more than 125 per cent of its capital and surplus. A bank with a capital of $100,000 can only obtain $125,000 of this currency. Of course, if it obtains the money it does so for the purpose of loaning it to its customers. Now, a bank with $100,000 of capital ordinarily would have approximately $5,000,000 of loans. If any Senator were acting as president of a bank having a capital of $100,000 and $5,000,000 of loans at 6 per cent interest——

Mr. WEST. Mr President——

Mr. REED. I hope the Senator will not interrupt me until I get through with this sentence, and then I will gladly yield. If you had $5,000,000 loaned out at 6 per cent interest and you obtained $125,000 of this currency to be loaned to your customers, could you reduce the rate on all of your $5,000,000 of loans from 6 per cent to 5 per cent in order to get $125,000

Mr. OVERMAN. Mr. President——

in currency?

Mr. REED. If the Senator will let me conclude that thought, let us see just how that would work out in figures. If a bank had $5,000,000 loaned at 6 per cent, its annual interest collection would be $300,000. If it were to obtain $200,000 of this currency—I use that figure arbitrarily—it would have $5,200,000 to loan, and if it reduced the rate to 5 per cent its total income would be $260,000, if I have figured it accurately in my head, as we say, standing here. Thus it would lose $40,000 by virtue of getting this additional money and it would be that much worse off.

The question may be asked could it not reduce the rate of interest upon the $100,000 or $200,000 that it obtains from the Government? I answer no. The moment it would give a special reduction in the rate of interest upon the $200,000 it obtains from the Government, reducing that rate to 5 per cent or 4 per cent, it would disturb the entire interest and discount market in which it was concerned. It would inevitably result in forcing a bank to make cuts to other customers if it did that. The minute it becomes apparent to a banker that if he obtains $100,000 of this currency and loans it out he must disturb the whole interest and discount market and must cut in on his own natural and legitimate profits, that banker is not going to take a single penny of the money out. He would be a very foolish man to do so. There is not any answer to that, in my judgment, and I think Senators will agree with me if they will just get the blood out of their heads and sit down coolly and think about it.

Mr. OVERMAN. Looking at this matter as a cold proposition, let me ask the Senator a question, if he will yield to me.

Mr. REED. I shall be glad to yield to the Senator, although I should yield first to the Senator from Georgia [Mr. WEST], who sought to ask me a question some time ago.

Mr. WEST. Mr. President, the Senator has stated that a bank having a capital of $100,000 might lend $5 000,000. I think the Senator's statement exceeds the limit that a bank ever loans out upon that much capital. He evidently means $500,000.

Mr. REED. No; I do not; I mean there are plenty of such banks.

Mr. WEST. I have never known of any in my section of the country.

Mr. REED. I mean there are plenty of banks in my section of the country with $100,000 of capital that have many times——

Mr. WEST. They must have an enormous surplus.

Mr. REED. Yes. I know a bank in my city of $500,000 of capital that at one time had $40,000,000 in deposits. I know of a bank in New York City that has $200,000 capital, and I would be afraid to hazard a statement as to the vast amount they have on deposit.

Mr. WEST. That must be the Chemical National Bank of New York, which has an enormous surplus, or at least it used to have.

Mr. REED. Now, Mr. President, I yield to the Senator from North Carolina.

Mr. OVERMAN. I merely want to say to the Senator that his whole argument is based upon the supposition that the banks will loan money always at a uniform rate of interest. They do not do that, as the Senator knows.

Mr. REED. Not uniform; yet there is——

Mr. OVERMAN. They loan money sometimes at 2 per cent on call, or 3 per cent, or they will make arrangements to loan money, depending upon the security, at 5 per cent to one person, 6 per cent to another, 7 per cent to another, and 8 per cent to another. The Senator will admit surely that if 1 per cent is removed from the tax the banker can loan the money at 1 per cent less.

Mr. REED. I do not admit it.

Mr. OVERMAN. Does the Senator say that the banker can not do it?

Mr. REED. I do not admit it, because of the practical difficulties. Lest I should forget it later on I want to say to the Senator that if we could take this money, limiting the amount so that there would not be a dangerous inflation, and if in this exigency we could carry it directly to the people of the United States without a penny charge and give them the benefit of it, I would be delighted at that possibility.

Mr. OVERMAN. I would not, because I do not think the people ought to be given money in that way.

Mr. REED. Well, of course, I mean where they give proper security. If it were possible, without the danger of inflation, to carry this money to the people who need it without using the banks as an instrumentality and without giving the banker the rake-off and the benefit, I should be delighted to carry the money to the cotton planter and the corn raiser and the man engaged in any pursuit making it necessary to have money; but that certainly is not practicable at this time.

Answering the Senator, it is true that banks have different rates of interest for different customers, always controlled by the facts surrounding the transaction. The man who is a large borrower, a steady customer, a heavy depositor, of undoubted credit, will, of course, get money cheaper than the man who borrows a small amount, whose credit is doubtful, and who is not a depositor in a bank. Between those two extreme cases are all varieties and conditions. Nevertheless, however, there is a basic rate of interest; and whenever you say to the banks of your State, "You can obtain additional currency from the United States to an amount equal to perhaps about one-tenth of your loans, but when you obtain it you must lower the rate of interest," the banker will say, "I prefer my present rate of interest, undisturbed, to the securing of additional money, the taking of additional risks, and a disturbance of the entire interest market." Accordingly that gentleman will not come here and get money. You can not compel him to do it. You will make it to his interest not to do it.

Mr. OVERMAN. Then that is one way to stop inflation, is it not?

Mr. REED. It not only stops inflation, but it stops everything. It stops any increase. If the Senator proposes now to get up a scheme that will keep the banks from getting any of this money at all, he has devised a beautiful scheme to do it; and it is no answer from his lips that it would stop inflation, because what he is demanding is more inflation. You can not argue both ways here. You can not be like the animal Munchausen tells about that had a set of legs on its belly and another set on its back, and when you chased it until the legs on its belly grew tired it would whirl over on its back and run on its back. You can not travel that way in the realm of logic.

Mr. OVERMAN. That is what I was complaining of the Senator for—that he was traveling in that way, in that he argued in one breath that my amendment would produce inflation and in the next breath that I was devising a scheme to keep the money out of circulation.

Mr. REED. I have not even discussed the question of inflation. The word has not come out of my mouth this morning, except as I just now replied to the Senator and used it. The Senator has me confused with somebody else.

Mr. FLETCHER. Will the Senator yield to me for a suggestion?

Mr. REED. Certainly.

Mr. FLETCHER. I simply wish to suggest that very recently, I think about the 4th or 5th of August, Mr. Lloyd-George rose in the House of Commons and said: "I want a credit of a hundred million pounds." It was voted very promptly; and then he said: "We will reduce the bank rate from 10 per cent to 6 per cent, and we will have all banks closed for three days in order to adjust themselves to these conditions." The reduction was made to 6 per cent, and then, shortly afterwards, to 5 per cent.

Mr. REED. Yes.

Mr. FLETCHER. And that while the English Army was mobilizing and troops were marching through the streets of London to the front.

Mr. REED. Why, Mr. President, the Senator is too much of a logician to put that as a parallel with the condition existing in this country. In the first place, the Parliament of Great Britain is all powerful. Great Britain has no constitution such as we have. The Parliament of Great Britain can pass any law it sees fit to pass and it is the supreme law of the land. In the second place, the credits of England are largely controlled through one great bank, the Bank of England; and the Bank of England, by raising and lowering rates, can, of course, affect the price of exchanges and the interest price all over the kingdom. The Bank of England is in close touch with the Government; and the Government did something the

Senator did not tell us about. It became the guarantor of the Bank of England and stood back of the entire transaction, and has absolutely released the indorsers and the makers of acceptances to the amount of hundreds of millions of dollars, and has agreed to carry them for the people.

Happily, we are not to-day in a condition where that is necessary. The point I am trying to impress upon the Senate is that a reduction of the rate of tax levied by the Government on this currency will not go to the ultimate consumer, because the bank will not accept that money if, by accepting it and using it, it must cut its own profits upon all the large sums of money it already has on hand and which it loans.

There is not any answer to that, Senators. We shall have to settle this thing now upon its merits. I am not standing here merely to argue a question. I repeat, if I could carry this emergency currency directly to the people without the interposition of a bank, I should be glad to do it, but under the present circumstances we must deal through the banks.

There is another reason that ought to appeal to thoughtful Senators—and I know that every man here in this emergency wants to do the right thing—and that is that of the money the bank now has on deposit and which it has reloaned a very large percentage is interest-bearing money. It is the custom of many of the great banks of the country to pay 2 per cent, or anywhere from 1 per cent to 2½ per cent, upon checking accounts. That is especially true of State banks and trust companies, which it is proposed by one amendment which has been suggested here to bring more thoroughly into the system. In addition to that, many of the banks pay 3 per cent upon time deposits, and in some instances go beyond that figure.

Now, imagine yourself the president of a bank with $500,000 of money upon which you are paying your depositors from 2 per cent to 3 per cent and that money loaned out at a rate of interest which will compensate you for your risk and leave you a profit. Can you conceive, then, of your going to the Treasury and getting $200,000 of emergency currency and dumping that into the market to destroy the interest rate you are obtaining, not only upon your general deposits, but upon these deposits upon which you yourself must pay a rate of interest? You will not do that. You will simply say, "Well, I will go on as I am now. I will not take any of this currency. I will not bother with it. There is nothing in it but loss for me and trouble for me, and accordingly I will pursue the even tenor of my way."

When the banker does that, when banker A and banker B and banker C and banker D do that, the result is that this currency does not get into circulation and does not reach the cotton planter or the merchant who feels a necessity for it at the present time.

I appeal to Senators to think of those things.

Mr. OVERMAN. Mr. President——

Mr. REED. I yield to the Senator from North Carolina.

Mr. OVERMAN. The amount of tax now required by the Government on its deposits in national banks is 2 per cent, is it not?

Mr. REED. The amount of tax?

Mr. OVERMAN. Yes; the amount of interest required by the Government on its deposits in national banks.

Mr. REED. The Senator means that the Government requires the banks to pay 2 per cent interest to the Government?

Mr. OVERMAN. Yes.

Mr. REED. Oh, I understand; certainly.

Mr. OVERMAN. Why should there be any different rate on this than on that?

Mr. REED. I shall be glad to answer that question now if the Senator will permit me to do so.

Mr. OVERMAN. Before the Senator does I want to say this to him: The Government has been depositing—we will call it interest or tax, whichever you please—at a rate of 2 per cent what are known as its deposits, and also crop-moving funds, in the leading centers of the various States. In other words, it deposited these funds in three towns in my State. It deposited them in the large towns among the big bankers. The consequence is that the smaller bankers have never gotten any of the benefit of this at all. They have gotten no benefit of this money, and can not get it. The man that really ought to have this emergency currency is the small country banker; and you want to tax him 3 per cent, when the big banker is paying only 2 per cent on the deposits made by the Government in his bank. Is not that true?

Mr. REED. Some of the statements of fact the Senator makes are accurate; some of them would have to be qualified; and with his logic I utterly disagree. In the first place, there is absolutely no parallel between the two conditions the Senator presents.

Mr. President, I think we ought to have a reasonable attendance here, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MYERS in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Kenyon	Overman	Simmons
Brady	Kern	Page	Smith, Ga.
Burton	Lane	Perkins	Smith, Md.
Camden	Lea, Tenn.	Pittman	Smoot
Chamberlain	Lee, Md.	Poindexter	Sterling
Chilton	Lewis	Pomerene	Stone
Crawford	McCumber	Ransdell	Thomas
Culberson	McLean	Reed	Thompson
Fletcher	Martine, N. J.	Robinson	Thornton
Gallinger	Myers	Shafroth	Vardaman
Hughes	Nelson	Sheppard	White
James	Norris	Shields	Williams
Jones	Oliver	Shively	

Mr. THORNTON. I desire to announce the necessary absence of the junior Senator from New York [Mr. O'GORMAN] and that he is paired with the senior Senator from New Hampshire [Mr. GALLINGER]. I ask that this announcement may stand for the day.

The PRESIDING OFFICER. Fifty-one Senators have answered to their names. There is a quorum of the Senate present.

Mr. GALLINGER. Mr. President, in behalf of the junior Senator from Maine [Mr. BURLEIGH], on account of personal illness as well as the serious illness of his wife, I ask unanimous consent that he be excused from further attendance upon this session of Congress.

The PRESIDING OFFICER. Is there objection to the request?

Mr. REED. I could not hear it.

The PRESIDING OFFICER. The request is that on account of personal illness and illness in his family the Senator from Maine [Mr. BURLEIGH] be excused for the rest of the session. Is there objection? The Chair hears none, and it is so ordered.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD.

Mr. NORRIS. I ask unanimous consent for the adoption of the following order.

The PRESIDING OFFICER. It will be read.

The Secretary read the order, as follows:

Ordered, That leave be granted the secretary of the Interstate Commerce Commission to withdraw from the files of the Senate the manuscript of Senate Document No. 543, Sixty-third Congress, second session, "Evidence taken before the Interstate Commerce Commission relative to the financial transactions of the New York, New Haven & Hartford Railroad Co., together with the report of the commission thereon," said manuscript being original papers filed with the commission.

The PRESIDING OFFICER. Is there objection to agreeing to the order?

Mr. REED. I make no objection if it does not provoke discussion.

Mr. NORRIS. I will not insist on it if it provokes any debate. I can not see that it will do so.

The PRESIDING OFFICER. The Chair hears no objection, and the order is agreed to.

AMENDMENT OF NATIONAL BANKING LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6398) to amend section 1 of an act approved May 30, 1908, entitled "An act to amend the national banking laws."

Mr. REED. Mr. President, in closing my remarks I will repeat the statement that a reduction of the rate of interest from 3 per cent to 2 per cent will inure to the benefit of banks and nobody else, and that the banks will not take out the money at all if they must do it upon the condition of a general reduction in their rate of interest to their customers. I want now to show why 3 per cent is probably the correct figure.

First, it is not desired to induce banks to take this money indiscriminately and for the purpose of making a large profit to themselves. It is proposed to afford a situation which will enable a bank whose customers really need money to obtain that money in such a manner as, first, to reimburse the bank for the risk and expense it takes, and, second, to limit the amount which will be taken of the currency so far as it may be limited without denying the country the benefit of the system.

It is estimated that it costs a bank approximately 2 per cent to obtain this currency, to loan out the money, and to settle at the end of the transaction with the Government. I do not know upon what those figures are based, but that is the estimate I have heard made. If a bank pays 3 per cent for money and if it costs the bank 2 per cent to handle it, that is equal to 5 per cent, and if the bank loans its money at 6 per cent, which most of them do, particularly in the West and South, or at a greater rate, at 6 per cent the bank makes 1 per cent by the transaction. If it loans it at 7 per cent, it would make, of course, 2 per cent,

and if it loans at 8 per cent it would make 3 per cent; but the average bank gets about 6 per cent. One per cent profit for handling the transaction, together with the incentive to accommodate its customers, ought to be a sufficient inducement to the bank and a sufficient recompense to the bank.

I beg the Senate to bear two facts in mind. One is that it is not intended to put this money out permanently. There are two reasons for that. The first one, of course, is that a general inflation is not desirable. But the second one, which at the present time is perhaps the more powerful, is that the Federal reserve system is about to be inaugurated. The details are being rapidly worked out, and when that system is inaugurated it is certainly to be hoped that there will not be a vast amount of this particular form of emergency currency outstanding which must be taken care of by the system and which will be to some extent an annoyance, if not a disturbance.

Within 90 days' time the Federal reserve system ought to be established, and when it is established the burden of carrying the financial affairs of the United States will be immediately cast upon those reserve banks. The weight which has heretofore been taken care of by the great banks of great cities will, as soon as the system is established, be transferred to the Federal reserve banks of the country. When there is a demand for gold that demand will be made upon the Federal reserve banks, and whereas a few days ago, when there was a demand for gold, the banks of New York assembled and determined to raise something like $90,000,000 to take care of the obligations of the city of New York, when the Federal reserve bank is established in the city of New York it is my opinion that if the demand for gold should arise again it will immediately be made upon that bank. It is therefore of the highest importance that when we are about to establish this Federal reserve banking system we should be in a position to do so upon the most stable basis. Just in proportion as you scatter throughout the channels of trade and commerce an emergency currency beyond the absolute demands of the hour do you to that extent imperil this great system which we all hope will bring so much benefit to the country. And that is not a consideration to be lightly passed over and brushed aside. It is a problem now confronting the Federal Reserve Board.

Then, I call the attention of Senators to another proposition which I regard as of still greater importance, and I beg that Senators will not allow themselves to be swept from their feet by virtue of some local condition or for a single moment cease to look upon the present financial condition in its broadest possible aspect. Almost the whole civilized world is plunged in a tremendous war. Every day that war continues the productive force of those great countries is at something worse than a standstill. Consumption has been magnified by reason of the enormous expense of moving armies and munitions of war, and in addition to consumption is the mighty force of destruction which is hourly striking down values. In consequence the financial system of Europe is trembling, I fear, upon the verge of a precipice. The gold reserve of the Bank of England a few days ago—I think three days ago—according to the press reports, was down to 19½ per cent. Payments have been suspended to a greater or less extent in all the countries involved in this titanic struggle.

With the exception of perhaps one other great country, we alone are enjoying the benefits and blessings of peace. Our banking system and our currency system up to this moment are not only stable but, if we make no mistakes, impregnable. We occupy the Gibraltar of the financial world.

If we continue to maintain wise and prudent counsels we will dominate the financial world. In proportion as we maintain those counsels will we make it easy to maintain our position. What investor is there in Europe who, having securities, a part of them securities of a European country, a part of them securities of this country, and being obliged to sell the one or the other, would not prefer parting with those securities which are menaced by this great war and prefer holding those securities which are protected by a flag that at once represents power and peace and industrial and financial integrity? Accordingly, if we do not shake the confidence in our own system investors abroad will naturally prefer American securities. But shake confidence abroad in our system, adopt the policy that was suggested by a question a few moments ago of declaring a moratorium and other extreme measures, and instantly this country, now in a condition of profound peace, will have placed itself upon the financial level of countries involved in deadly war.

Senators ought not to want to introduce the slightest element of danger at this time of all times in the history of the United States, when we can best afford to move with care and caution. This is the supreme moment.

Now, what should we do? I think the plan that has been devised by this board, who have given much painful thought to the question, is a wise one. It is to permit the banks to obtain currency under the Aldrich-Vreeland Act upon the class of securities they now have. As I stated the other day, many of the banks of the great cities have the bonds which the present Vreeland-Aldrich Act specifies. Upon those bonds, which they have in their vaults, they have been able to obtain already much assistance through this emergency currency. But the banks of the country, the banks of the South and of the West, indeed of the great interior everywhere, do not ordinarily carry a large number of bonds which may be used for security. The proposition is to permit those banks that do not have the bonds or do not wish to use them to use, in lieu of the bonds, up to the amount of 75 per cent, the commercial paper they already have in their vaults. Now, that is the thing that immediately will benefit the South. The Senator from Georgia shakes his head.

Mr. SMITH of Georgia. If you extend it to the State banks, it will benefit the South.

Mr. REED. You mean it will go further if it is extended to State banks, but you do not mean that the South can not get any benefit, because the Senator is too candid a man to say that no benefit can come from it.

Mr. SMITH of Georgia. I do not say that they will not have some benefit, but they will have incomparably more when it goes to State banks.

Mr. REED. That is a question which we will discuss when we get to that question. I am now simply——

Mr. SMITH of Georgia. I am perfectly satisfied with the 3 per cent if the State banks do not have to go to the national banks to try to borrow the money. If we can get it to all who need it without having to filter it through two banks, I do not mind 3 per cent so much. That is why they are involved with each other.

Mr. REED. Of course, I do not object to the interruption, but I would prefer discussing that as a separate proposition. I do not think they are involved together at all.

This bill will enable any bank that is a member of any currency association, and, indeed, banks that are not members, to bring their promissory notes to the Secretary of the Treasury and upon those notes to obtain this money. So that will immediately benefit those banks. Yet, strangely, that proposition, which enables a bank to use its good security, was opposed upon this floor yesterday by men who now clamor for a reduction of the rate of interest.

I say again, as I have already said, by substituting the commercial paper of the bank as security for the bonds we take no radical step, because that is the class of securities we propose to use as the basis for all the money that is to be issued under the Federal reserve act, and by this means we do enlarge the opportunities of the national banks.

I come now for a moment to the statement of the Senator from Georgia [Mr. SMITH], and I want to advert to it for just a moment. The Senator states that if this bill was so drawn that the State banks could obtain the benefit of it, it would suit him better. Nevertheless there must be a benefit coming to the State of Georgia. In the first place, the State of Georgia has a large number of national banks. All her national banks can avail themselves of this bill directly. I do not know for the moment how many national banks the State of Georgia has.

Mr. POMERENE. If the Senator will permit me——

Mr. REED. I yield.

Mr. POMERENE. Under the statement which the Senator from Missouri incorporated in his remarks yesterday Georgia would be entitled to currency to the amount of $15,952,000.

Mr. REED. I remember the tabulation I put in the RECORD. The banks of Georgia have that power. The number of national banks in Georgia I do not have before me at the present time. Incidentally, I remark in passing that the national banks of North Carolina are yet entitled to $6,922,000. The Senator from North Carolina will find that on page 14858 of the RECORD. If there is a real demand for this money, it is inconceivable to me that the national banks in these two great States will not, when we have permitted them to use their ordinary commercial paper as security, come to the Treasury and get this money.

Mr. OVERMAN. Will the Senator yield to me?

Mr. REED. I yield.

Mr. OVERMAN. I think I can show the Senator from Missouri that under his statement, adopting it as true, and I think it is true, it will be impossible for the State banks of my State to get any of this money.

Mr. REED. I have not spoken of the State banks.

Mr. OVERMAN. I mean that the State banks will not reap any benefit from this legislation. That is what I mean.

Mr. REED. I am talking about——

Mr. OVERMAN. The Senator will understand me in a moment.

Mr. REED. Yes.

Mr. OVERMAN. The Senator read a statement yesterday showing that the South was entitled to $160,000,000 of this currency. He also showed that $250,000,000 had been taken out by the great cities.

Mr. REED. Oh, no; the Senator is mistaken.

Mr. OVERMAN. A large amount. How much was it?

Mr. POMERENE. The amount is $150,000,000 altogether.

Mr. REED. The Senator has the statement before him on page 14858 of the RECORD.

Mr. OVERMAN. One hundred and fifty-four million dollars?

Mr. REED. Yes.

Mr. OVERMAN. In other words, most of this money has been taken out by the great centers.

Mr. SHAFROTH. The amount is $256,172,030. That is the total.

Mr. REED. That is to-day, but the statement I have here, so that the RECORD will be clear, was of the 20th of August, I think.

Mr. SHAFROTH. Of that New York City had $126,549,530.

Mr. OVERMAN. Showing that the great New York City alone out of $250,000,000 got $126,000,000 in round numbers.

Mr. REED. Will the Senator let me tell him why right now? It was for two reasons. First, of course, there was an unusual demand there, a pressure, but New York City banks had the bonds to put up.

Mr. OVERMAN. Exactly.

Mr. REED. Now we propose to accept a class of security that your banks have and that the banks in my town have.

Mr. OVERMAN. Only $8,000,000 have been taken out of $160,000,000 in the whole South.

Mr. SHAFROTH. Oh, no, Mr. President.

Mr. OVERMAN. That is the way I understand it.

Mr. SHAFROTH. The amount which the Southern States have taken out is $125,163,258.

Mr. OVERMAN. One hundred and twenty-five million dollars out of $256,000,000.

Mr. SHAFROTH. Yes.

Mr. OVERMAN. The point I am getting at is this: The Senator said they take 2 per cent of this money to handle it, and they then pay a tax of 3 per cent. The national banks are taxed that money upon the security the Senator from Missouri talks about. That will make 5 per cent the actual cost. Is not that right?

Mr. REED. My understanding is that that is approximately right.

Mr. OVERMAN. That is, it costs a national bank 5 per cent to get this money. The national banks get it, and the State banks now want some of this money. They can not get it under this bill at less than 6 per cent unless you adopt the amendment of the Senator from Georgia.

Mr. POMERENE. Mr. President——

Mr. REED. In the 2 per cent that I spoke of as the cost was included the cost to the bank not only of getting the money from the Government but of loaning the money and collecting the money back and handling the entire transaction.

Mr. OVERMAN. Exactly, but it costs the national banks 5 per cent to handle the money.

Mr. POMERENE. If I may be permitted, the Senator said a moment ago that it would be impossible for State banks to get any of this money.

Mr. OVERMAN. I am talking about my own State.

Mr. POMERENE. If the banks in the Senator's State are very anxious to have any of this money it is a very easy matter for them to reincorporate under the national banking act.

Mr. OVERMAN. You want to force the State banks in North Carolina to do that. There are three times as many State banks as there are national banks, and our people are proud of our State banks, and in the panic when the national banks went to the wall there was not a State bank in my State that went down. We like our State banks. We do not want to be forced by the National Government to go into national banks.

Where our State banks have $20,000,000 there are only $10,000,000 in the national banks.

Mr. POMERENE. It is a question of the State banks asking for a privilege which belongs to the national banks. The national law has provided the terms and conditions upon which they may come in. If they desire to benefit their people and if that is the only way they can be any benefit to them, the door is open for them.

Mr. OVERMAN. Yes; by becoming national banks, and they do not propose to do that.

Mr. SMITH of Georgia. If the Senator from Ohio will allow me to reply, just for a moment, I will say that I am just as proud of our national banks in my State as I am of our State banks. There are reasons why some of our big State banks, however, do not nationalize. They conduct a class of continued loans to farmers on real estate which they could not do under the provisions of the national banking law. They also extend larger credits to individual customers than the national-bank laws allow.

Mr. POMERENE. The provisions of the Federal banking act in regard to farm loans, however, are very much more liberal than they formerly were.

Mr. SMITH of Georgia. Oh, yes; we liberalized them very much under the Federal reserve act; and a number of our State banks, I know, are arranging within the next 12 months to adjust their system of loans to the new currency law. Then they expect to come into the Federal reserve system; but they can not nationalize at present on account of the character of securities which they hold and loans that they make.

Mr. REED. What was the question which the Senator from North Carolina intended to ask me?

Mr. OVERMAN. I have been trying to get at it, but I have been interrupted too frequently. My friend from Ohio [Mr. POMERENE] thinks this legislation is for the benefit of the banks and not for the benefit of the people.

Mr. POMERENE. Mr. President, I am quite sure that the proposition which is now pending before the Senate, and which is embraced within the Senator's own amendment, is wholly for the benefit of the bankers and not for the benefit of the people of his own State.

Mr. OVERMAN. The Senator says this proposed legislation is for the benefit of the banks and not for the benefit of the people. I stand for the people in this matter, but I wish now to go on and ask my question.

Mr. REED. I am waiting now to hear it.

Mr. OVERMAN. The Senator's statement was that it cost 2 per cent to handle this money, and that the tax is 3 per cent, which makes 5 per cent. The national bank gets it at 5 per cent; that is the amount it is taxed before it can use any of this currency at all. Then that leaves 1 per cent profit. If the State bank wants money from the national bank, and the national bank desires to grant the accommodation to the State bank, it will cost the national bank 2 per cent to handle it, and it will cost the State bank 1 per cent to handle it. That makes 6 per cent, and the State bank could not loan it at all, because the legal rate of interest in my State is 6 per cent, and everything is forfeited if money is loaned at a greater rate of interest than 6 per cent. So the State bank could not get any money, and, therefore, could not loan it, because it could not profitably loan it except at a higher interest rate than the legal rate. Is not that true, according to the Senator's own statement?

Mr. REED. I ask the Senator from North Carolina if that is the question?

Mr. OVERMAN. Yes; I ask if that is not true?

Mr. REED. I do not think that necessarily follows; but again I say I will join with the Senator from North Carolina now in his statement—not his argument, for his argument is all in favor of profits for the banks——

Mr. OVERMAN. Oh, not at all.

Mr. REED. In his statement that he stands with the people, and that he wants the people to have the benefit. I will get on that platform with the Senator and discuss this question from that phase.

Mr. OVERMAN. The Senator has already discussed it in the interest of the bankers.

Mr. REED. I have not discussed it that way.

Mr. OVERMAN. But the Senator did admit that if the bankers got their money at 2 per cent they could loan it at 1 per cent lower than they could if they paid 3 per cent.

Mr. REED. Mr. President, I have not made the statement which the Senator attributes to me. I have not discussed this question from the standpoint of the interest of the banker. I have not said that this was for the purpose of benefiting the banker. I said distinctly, at least a half dozen times, until I was tired of hearing myself say it, that if I could carry this currency to the people without the interposition of a banker at all I would do so.

Mr. OVERMAN. The Senator did say that; but he said further that the adoption of my amendment would be 1 per cent in the banker's pocket.

Mr. REED. I did say that as to the Senator's amendment; I say that is all there is in the Senator's amendment.

Mr. OVERMAN. The Senator said it a dozen times.

Mr. REED. I did not understand the Senator to mean that I was making that charge against him. I thought he was making it as to me.

Mr. POMERENE. Mr. President, it can hardly be said that because the Senator from Missouri is insisting on banks paying a tax of 3 per cent interest instead of 2 per cent, therefore he is favoring the banks.

Mr. OVERMAN. We had that up and down. That is what I intended to say to the Senator, and what the Senator stated a half dozen times.

Mr. REED. As the Senator now makes the statement, and as I now understand it, there is no question between him and me at all. I have said that his amendment is an amendment which will increase the profits of the banks, and, in my opinion, will not do any good to the people.

The Senator comes to the question of the State banks getting a benefit. We are not concerned in benefiting the State banks—that is my answer: we are not concerned in benefiting any bank; we are concerned in getting this money to the people; and I assert that there is not a State in this Union in which, if the national banks have plenty of money, financial conditions will not be easy. You can not, any of you, assert to the contrary.

Mr. SMITH of Georgia. They would be easier or easy?

Mr. REED. That they would be easy. We have in my State over 1,300 State banks and trust companies; we have, if I remember aright, 315 national banks. I reserve the right to amend those figures, for I am stating them from memory. I have labored assiduously to do everything within my limited power to make it easy for State banks and trust companies to join the Federal reserve system. The law—and I am now speaking of the Federal reserve act—contains provisions looking to that end, all of which I favored along with other members of the committee and the Senate.

I drew the little amendment which appears at the end of the law of August 4, permitting State banks to come into the system. The amendment was offered in the House of Representatives, but it happens that I drew it; after some conference it was taken over there, and I think it was passed as I drew it. So I am not trying to fight the State banks and trust companies; for this moment I am arguing the narrow question of whether if we carry this plan through, so that the national banks get the benefit, the people will also get the advantage of the better financial conditions.

I affirm that if all the national banks in my State have plenty of money there will be no great difficulty in getting along, and if all the national banks of Georgia or North Carolina have plenty of money there will be no great difficulty in getting along, even if the State banks and trust companies do not get any from the national banks; but I do not think that it follows at all that a national bank may not be able to accommodate a State bank, assuming the correctness of the mathematics of my friend from North Carolina in his interrogatory to myself.

You start with the proposition that the Government is to obtain 3 per cent tax and that it costs a bank 2 per cent to gather its securities together, to secure on them the emergency currency, loan that currency to its customers, collect the notes of the customers, gather up the emergency money or its equivalent, carry it to Washington, and close the transaction. We are assuming that that costs 2 per cent. As I stated when I used that term, I had heard that estimate made; I do not vouch for its accuracy, but let us assume it to be true. That is a total of 5 per cent.

It does not follow at all that a bank could not afford to loan some money to a perfectly stable and sound State bank or trust company upon that margin. Indeed, I think the difference between 5 and 6 per cent is sufficient margin, because it does not take the whole 2 per cent in that event to cover the expense. It is a very different thing for a bank to take $100,000 of money and loan it to a sister bank from what it is to loan it out to twenty or thirty or a hundred or five hundred customers and collect it.

Mr. OVERMAN. Right there, Mr. President, I wish to say the Senator is getting to the idea that I intended to convey to him; that is, that the national bank can afford to loan this money at 6 per cent. I agree to that. Now, the State bank has got to loan that money and get something for its trouble.

Mr. REED. The Senator did not understand me. I claim that the national bank, paying the Government 3 per cent, can loan the money to a State bank at less than 6 per cent. It does not in that case cost the same amount to handle that loan, and there is a 1 per cent margin in any event.

Mr. OVERMAN. Mr. President, I have heard it stated, just as the Senator has said, that it costs 2 per cent to handle this money.

Mr. SMITH of Georgia. But, Mr. President, if the Senator will allow me to interrupt him——

The PRESIDING OFFICER (Mr. WEST in the chair). Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. I do.

Mr. SMITH of Georgia. If we now put into succinct law the provision that the Senator himself drew, it will not be necessary for State banks to borrow from the national banks; and I want to supplement his argument with that thought.

Mr. REED. Mr. President, I understand the nature of the Senator's suggestion, and I can not help but appreciate—I do not want to say the cunning, because I would not attribute that to the Senator—but the very shrewd way in which he puts it. When we come to that question I shall deal with the Senator and the Senate with very great frankness, but just at present we are discussing the question of the interest rate. Now, let us look at this matter frankly and fairly.

Let us assume that the State banks and trust companies in some instances might not get this money from the national banks, so much the more reason for them to join the system. They are not obliged to surrender their State charters to join, but they are obliged, if they do come in, to submit at least to an inspection and to the regulations that may be prescribed by the Federal Reserve Board.

Mr. OVERMAN. The Senator does not intend to force them into the national system; but has it not been the policy of this Government to try by every manner of means to force the State banks to come in, and was not this rate put at 3 per cent in order to exert pressure on the State banks to get them to come into the system?

Mr. REED. Nobody thought of the State banks when 3 per cent was fixed.

Mr. SHAFROTH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Colorado?

Mr. REED. I yield.

Mr. SHAFROTH. Mr. President, the original rate was 5 per cent, and it applied only to the national banks. The reduction was made to 3 per cent without modifying the law in relation to State banks at all; and consequently it applies only to national banks.

Mr. OVERMAN. Is not the opposition to the reduction of the rate based on the idea of forcing the State banks into the Federal system?

Mr. SHAFROTH. No, Mr. President; the power of this Government is such that, if it wanted to do so, it could force the State banks now to come into this system.

Mr. OVERMAN. How?

Mr. SHAFROTH. The Government could do so by laws, just as they put a 10 per cent penalty on the State bank-note issues.

Mr. OVERMAN. I do not know how they would by law force State banks to come into the reserve system.

Mr. SHAFROTH. A great many persons thought that it could be done, although it was not expedient to attempt to do it.

Mr. REED. Now, Mr. President, we have discussed everything except the question; let us discuss the question. There has been no attempt to coerce State banks and trust companies, but if there had been, it would have nothing to do with this interest rate. If the State banks and trust companies want to come into this system, they can come in to-morrow. I have voted for the proposition to allow a State bank to come in with only $15,000 in capital, and a bill which has been reported here following the bill now under consideration permits them to come in with only $15,000 of capital, provided that within 18 months they will bring their capital up to the minimum for national banks, to wit, $25,000. Instead of hardships being put upon State banks and trust companies, every effort has been made to help; but now in this hour when they are coming to the Federal Government, under whose laws they have scorned to organize, asking for help, it comes with a poor grace for them to complain that they are simply put upon the same basis as a national bank. The door is wide open, and they are invited to join the system, and I am in favor of making the system strong by bringing in all the solvent banks of the country, not by coercion but by inducement.

But, Mr. President, as has been well said by the Senator from Colorado, when the 3 per cent tax was settled upon no one dreamed of the State banks or thought of them. It was proposed to reduce the amount from 5 per cent to 3 per cent in order to make it profitable to take out this currency to a limited amount. Starting at 5 per cent, and adding the cost of getting

the money out, imposed such a burden that the banks did not avail themselves of the privilege afforded by the law. We then proceeded a step further, or are trying to proceed a step further, and propose to allow the banks to use their commercial paper instead of bonds. The only difference is that the Senator wants to take one additional step more, and I think that it is unwise to do so; I think it is unwise for all the reasons which I have offered. We ought not to let too great an amount of this currency out. I would feel more like letting it out if the benefits could go to the people; and yet everybody who has studied financial problems at all knows that you can make money so cheap that it is not worth anything.

Mr. SMITH of Georgia. Mr. President——

Mr. REED. I yield to the Senator from Georgia.

Mr. SMITH of Georgia. Mr. President, I merely want to say to the Senator that if we can feel any assurance that we will have the support of himself and the committee in an effort to give the State banks the opportunity of coming in, I think the sentiment would be almost unanimous in favor of sustaining the Senator's view as to the 3 per cent rate.

Mr. REED. Enable the State banks to come into the Federal system?

Mr. SMITH of Georgia. To enable them to take advantage of the Aldrich-Vreeland Act upon the lines of the amendment which the Senator himself has heretofore presented. I understand that the difficulty about it then was that the department was advised that the language was not sufficiently specific to relieve the notes of the State banks from the 10 per cent tax. The little amendment which I am going to present in a few moments follows the line of the amendment of the Senator from Missouri and specifically declares that these notes are not to be subject to that 10 per cent tax. If we could get that—and I do not see any objection to it—I would rather reduce the per cent of currency that the national banks may receive, if it is feared that there is going to be too much issued, and let the State banks share the privilege, too, because that will carry the currency, in my judgment, to the people.

I do not mean that there is not a benefit from the currency that you let the national banks have; I do not mean to say that, I did not mean to say that before; but they finance more generally very large enterprises; they finance our big oil mills, our big cotton factories, our big mercantile transactions, while the State banks are largely connected with the agricultural interests, because the State banks have unlimited power to take mortgages, and they frequently loan money on mortgages. Of course, the new currency law liberalizes that feature, and some of the largest of our State banks assure me that they are arranging their business just as soon as possible to close out the class of assets that are not recognized under our Federal reserve system and come into the Federal reserve system; but they do need this relief now, and they need it very much. It will carry the money to the people, and I hope the Senator will help us in that effort.

Mr. REED. Mr. President, does the Senator think that a perfectly solvent State bank or trust company in the city of Atlanta, desiring some money and having good security, could not go to the national bank with which it has been constantly doing business and obtain the accommodation?

Mr. SMITH of Georgia. I know that the national banks in Atlanta have been utilizing all their extra currency for the benefit of their regular correspondents and their large clients. I know that a number of our large State banks, some with capital and surplus as much as a million dollars and others with $250,000 or $300,000 capital, have not been in the habit of doing business with Atlanta national banks at all. They have never borrowed from them; they could probably get some money from them if they had plenty of it, but they would have to pay a higher rate than they ought to pay for it. I think they ought to be admitted to the issue of emergency currency on the same basis as national banks.

Mr. REED. Without coming into the system?

Mr. SMITH of Georgia. This bill does not relate to Federal reserve money at all; it relates to Aldrich-Vreeland emergency currency, to the privilege which national banks have under that act of issuing their own notes.

Mr. REED. What assurance has the Government when it issues this money to these banks that they are solvent? What does it know about them? How can it know anything about them? I want to say this in advance, that the policy has been, and the policy now is, not to issue these notes to individual banks, but to currency associations.

Mr. SMITH of Georgia. The State banks will have to join the currency association in their State; they will have to come into that currency association.

Mr. POMERENE. Mr. President, may I ask the Senator what authority would the State banks now have to join a currency association? Would not an enabling act from the State legislature be required?

Mr. SMITH of Georgia. It would not. There is not a State bank in my State covered by the amendment that could not join a currency association at once.

Mr. POMERENE. If that is true——

Mr. SMITH of Georgia. That is true.

Mr. POMERENE. There must be some special provision in your code which authorizes them to do so. Ordinarily a State bank would be acting ultra vires if it attempted to join such an association.

Mr. SMITH of Georgia. The law of the State of Georgia authorizes the State banks to comply with any national regulation applicable to the issue of currency, and generally gives them the authority to do so. So far as my State is concerned, that right exists clearly. The State banks would be compelled to come into the local currency association, the securities they put up would be subjected to scrutiny, and the whole of the currency association would become liable for every note any one of the State banks receives. The notes would be just as good as any issued to any bank in a currency association, because each bank would be liable. I personally know that the committee of the currency association of Atlanta is exceedingly careful about what kind of paper it passes, and it turns down a great deal of it.

Mr. REED. That, of course, is the next question that will confront us. My desire now is to settle one matter at a time. The two are not intermingled in any way, not related in any way. I rose to speak about 10 minutes, and I could have stated my views in that time if I had not been interrupted, but we got into a general running debate, which may or may not have done some good.

I repeat that the members of the Federal Reserve Board after due consideration think that 3 per cent is the correct rate; indeed, some of them have stated that it is possibly too low; that there is some danger of so much of this money being issued that it will embarrass us in the organization of the Federal reserve banks. I regret that we could not have passed this bill without much discussion. However, discussion is always illuminating, and we seem to have the whole summer before us.

Mr. President, if no one else desires to speak I call for the question.

Mr. BURTON. Mr. President, this question has already been debated at considerable length, and it is with some reluctance that I protract the discussion or say anything which shall be interpreted as placing me in opposition to rendering a benefit to the very important cotton industry; but it does seem to me that the Senate fails to realize the danger of a redundant currency, which is threatened by some of these pending propositions. A very simple bill was introduced here to change the law with reference to the amount of circulating notes depending upon commercial paper issued under the Aldrich-Vreeland Act. The original provision of the law was:

> That no national banking association shall be authorized in any event to issue circulating notes based on commercial paper in excess of 30 per cent of its unimpaired capital and surplus.

In the same statute there was a provision—

> That the total amount of circulating notes outstanding of any national banking association * * * shall not at any time exceed the amount of its unimpaired capital and surplus.

An amendment to the law has already been adopted by which circulating notes may be issued to the amount of 125 per cent of the capital and surplus. This amendment contemplated that the notes might still be issued upon two classes of securities, namely, commercial paper and bonds, but the quantity which could be issued against commercial paper remained at 30 per cent.

This pending bill, which was the original measure before us at the beginning of the discussion, sought to raise the limit from 30 to 75 per cent. An amendment was proposed making the percentage 80 per cent. It seems to me 80 per cent is too high. The Senate has already voted on this proposition making the proportion of capital and surplus which may be issued upon commercial paper 75 per cent, although it is evident that some legislation of that kind ought to be adopted providing for a larger quantity of commercial paper as security for notes, because otherwise the benefits of the act would accrue to the larger banks and banking institutions located in the more advanced and wealthy localities, since such banks are able to carry a large amount of bonds. Commensurate benefits would be denied to the smaller banks in the agricultural regions of the country unless they were authorized to utilize their commercial paper to a larger extent.

The pending proposition is to diminish the rate of interest or tax which banks must pay upon issues of currency from 3 per cent to 2 per cent per annum for the first three months. I think the fundamental errors of this proposition and of many of those now proposed arise from an exaggeration of the usefulness of the mere issuance of paper currency.

The quantity of paper currency which can be issued and successfully utilized must always depend upon available capital and upon the condition of credit. It goes without saying that paper notes do not add to the wealth of the world; they do not add to the facilities for business except in cases where the quantity of the instruments of exchange is reduced by hoarding or by other exceptional conditions.

The conditions which have been described in regard to the cotton trade, much as we deplore them, emphasize the fact that the crop is not now so available as it has been in other years. There is a wide difference between the utilization of a commodity as a basis for credit or indirectly for circulating notes when it can be readily disposed of, on the one hand, and on the other hand, when its sale must be long postponed no matter how great its intrinsic value may be. It is credit that is required, or the extension of credit, to tide over the cotton producer during this time of slackened sale, rather than the issue of the additional money.

I do not deny that some quantity of paper money in addition to that now available would be useful; but that, after all, is not a panacea which will remedy this situation. We must come to this fundamental principle: The issuance of paper money is a most important function. No institution ought to be allowed to issue it except under the very strictest regulations. We passed this emergency act in 1908 for a special purpose and to meet unusual conditions; but from the propositions pending now in the Senate it apparently is expected this will become part of the permanent currency policy of the country. It has been said to-day that it is expected the operation of the Aldrich-Vreeland Act will be extended after June 30 next. Mr. President, I sincerely hope that that will not be done.

Mr. SMITH of Georgia. Mr. President, will the Senator mention by whom that is claimed?

Mr. BURTON. The Senator from Utah [Mr. SMOOT] was one, and I thought one or two others.

Mr. SMITH of Georgia. Did he mention it with approval, with the idea that he desired it?

Mr. BURTON. I so understood him.

After prolonged consideration we have recently framed a Federal reserve act which provides a currency system for this country. We ought to rely upon it. If it is faulty, let us remedy it; but let us not depend for our currency supply on any mere makeshift.

I related yesterday at some length the original intention in the passage of the Aldrich-Vreeland Act. It was never intended that any money should be issued under it to meet the ordinary commercial conditions in the country. Nor was it ever intended that this currency should remain out except for a few months; but now, it seems, we are to pass by our gold currency, our silver currency, our currency under the Federal reserve act, and have still another variety, and that as a permanent part of our circulation.

Mr. President, the characteristic feature of our currency system to-day is its motley character. We have gold; we have gold certificates; we have silver dollars; we have silver certificates; we have greenbacks, aggregating about $346,000,000, but which are supported by a gold reserve of $150,000,000; we have the national-bank currency, amounting to $899,000,000, according to the last statement; we have still outstanding some of the currency certificates issued under the act of 1890, providing for the purchase of silver bullion. Of these last-mentioned notes there are outstanding only a small quantity, it is true, but they still constitute one variety of our currency. We already have out, according to some estimates, two hundred and fifty millions of currency under this emergency act. That makes eight kinds or types, and just as soon as the Federal reserve act is in operation we shall have a ninth class of currency.

Mr. President, no other country in the world has such a variegated system of money as that, and it is in every way an undesirable and disadvantageous system. I hope that when the 1st of July of next year comes these emergency notes will be superseded by other varieties of currency. If not, I am inclined to think they will be a menace to our whole financial system. They will raise prices, though they may temporarily lower rates of interest; great difficulty will be encountered in providing for their redemption; and we shall have a condition akin to that when the greenbacks were in circulation during the Civil War and later, though I trust it may not be as bad as that.

Mr. President, it has been very ably argued by the Senator from North Carolina and others that there ought to be no tax on these notes when they are first issued.

Mr. OVERMAN. Mr. President, if the Senator will yield to me, I did not say that. I said for the first three months.

Mr. BURTON. I thought I said "when they are first issued," and I believe I did so state. For the first three months, then. Now, as a broad economic principle I will concede that it is hardly logical to impose a tax or rate of interest on circulating notes. Generally speaking, if you have a permanent system under which bank notes are issued, the amount of that tax falls upon the borrower and proportionately raises rates of interest; but let us examine for a minute the difference between the general principles which have been accepted and the present problem presented by this emergency act. Let us, for instance, compare the bank notes which are to be issued under the authority of the Federal Reserve Board with the Aldrich-Vreeland notes.

Every dollar of the proposed Federal reserve notes must be represented by commercial paper, but, in addition, a gold reserve of 40 per cent must be maintained against those notes. Whenever the note of any one of the Federal reserve banks is presented, though first paid at the National Treasury or by another Federal reserve bank, it must be immediately paid for in gold by the Federal reserve bank issuing it; and so under any rational system and under any sound and stable financial system whenever a piece of paper money is issued there must be available at the bank or institution which issues it enough gold for its immediate redemption.

That is not the case with these notes. There is simply a small reserve put up against them. Primarily, the burden of their redemption is carried by the Government of the United States. Most fortunately, I think, we are seeking to supersede this long-existing custom, under which those who issue paper money do not have the responsibility of maintaining gold redemption, by one in which prompt redemption must be made. But in such a case as this, under the Aldrich-Vreeland law, it is absolutely essential that a tax be levied in order to prevent inflation. It is just to the people as well, because the institution that issues the paper money has an exceedingly valuable privilege. One question has been much discussed—who would get the benefit of this proposed lowering of the tax from 3 per cent to 2 per cent?

Mr. President, if the Aldrich-Vreeland Act were the permanent system for the issuance of paper money, if the borrowing and lending of money should be adjusted to it, it may be conceded that probably the borrower would get the benefit of the lower rate of interest; but these notes are to be issued for a few months at most and under exceptional conditions, and is it not inevitable that the banks will get the benefit of the lowering of the rate from 3 to 2 per cent? The resources of the banks would be of a varied nature. Part of them would be derived from these bills, part from deposits, part from their capital and surplus, part possibly from loans of money which they contract to be reloaned to their customers.

It is probable that the banks will select out this fraction of their resources and lend that at a lower rate than the rest or determine from it their terms to borrowers? Is it probable that the general conditions which settle the rates of interest in this whole country, with its enormous mass of discounts, will be so affected that the banks will grant lower rates because of the trivial reduction from 3 to 2 per cent on this comparatively small proportion of their resources? It is trivial, so far as affecting rates of interest is concerned, but it is by no means trivial as far as the profit of the individual bank is concerned. By making a deposit of 5 or 10 per cent as a redemption fund a bank can obtain the privilege of issuing paper money, borrowing—for that is what it is—at a rate of interest of 2 per cent for the first three months. I must insist that this is giving too great a privilege to the banking institutions of this country. The right to issue paper currency under normal rules should be attended by the maintenance of an ample supply of gold for redemption. No such responsibility is imposed by this act.

Mr. SHAFROTH. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. BURTON. I do.

Mr. SHAFROTH. I take it from the remarks of the Senator that he agrees with me in the proposition that if this rate of interest is reduced from 3 per cent to 2 per cent, nearly all of the money which can be issued under the Aldrich-Vreeland Act will be issued almost immediately?

Mr. BURTON. Certainly. If the banks can borrow money at 2 per cent they certainly are not going to pay 3, 4, 5, or 6 per cent.

Mr. SHAFROTH. Yes. Now, that being the case, I want to call the attention of the Senator to another danger that exists in having all of this money out for any great length of time.

Under the Aldrich-Vreeland Act this money can not act as reserve money, and consequently it will act almost exactly in the same way as a national-bank currency. The banks, when they get it, will not put it in their reserves, because they can not use it for reserve money. If it comes to the banks, and they can not issue it to the people, they will send it here to Washington for redemption in gold; and that of necessity will make a strain upon the gold we have. Inasmuch as the Governments of Europe have now made perhaps the most severe strain on gold that the country has ever known, it is not wise to have all of this money out in circulation; and if there is a great quantity out it ought to be out as short a time as it reasonably can be, and ought to be accompanied with penalties that will bring about its retirement.

Mr. BURTON. Certainly; the fact that it is in circulation for a long time, or in circulation at all, will not only affect the gold supply of the country, but, as the cheaper money drives out the dearer, it will have the further tendency to drive our gold abroad, especially in view of the great demand now existing in Europe.

Mr. OVERMAN. Mr. President, will the Senator yield to me?

Mr. BURTON. Certainly.

Mr. OVERMAN. Do I understand the Senator to argue that there is safety in 3 per cent and calamity in 2 per cent?

Mr. BURTON. I have already expressed myself upon that subject. I think 3 per cent is too low.

Mr. OVERMAN. The difference in degree between 3 per cent and 2 per cent—a difference of 1 per cent—will make calamity in this country? Can the Senator tell me why they fixed it at 3 per cent?

Mr. BURTON. I did not advocate 3 per cent myself. To my mind, 3 per cent was bad, but 2 per cent is very much worse, and we ought not to proceed farther along a wrong road.

Mr. OVERMAN. The Senator thinks it would be better to leave it at 5 per cent?

Mr. BURTON. I believe some one asked me a question about that yesterday. So far as providing for the situation caused by the organization of the Federal reserve banks is concerned, if it were limited to that, I think 3 per cent would be a fair and proper rate. But the trouble is that, as I understand the Senator from North Carolina and those who are with him in this contention, they are seeking to make use of this emergency-currency bill, which never was intended for anything except a severe stress in the country, to provide a means for supplying money or circulating notes for the ordinary operations of trade.

Mr. OVERMAN. I agree with the Senator that when the currency association gets in working order this bill ought to die, and it will die in 15 months; but the Senator does not appreciate—and he can not appreciate unless he should be down there in North Carolina or in Georgia and the South—our condition.

The State banks have discounted all of their paper in New York to get money to run these farmers, to furnish the supplies, to buy fertilizer, and so on, expecting, when the cotton was gathered, that they would take the cotton up and sell it and pay the bank, and the bank would pay New York, and they would have plenty of money. As it is, they can not sell the cotton for any price whatever now, and here they are. The farmer can not get any money. The bank can not get any money from New York, because its paper is already discounted up there. The basis of credit, if the ruling is adhered to, is the cotton itself—the cotton certificate, upon which the money is issued. If the farmer can get that, then he can pay his debts. He can pay his debt to the merchant. He can have the cotton picked out. They can not pick out the cotton now. It is in the fields. As the Senator from Georgia says, it is rotting in the fields because they can not get their money, and the banks can not let them have it. They are perfectly solvent. They have the land, and they could give a mortgage and get the money if it were there, but it is not there. This is an emergency that has arisen, and we want to let them have the money as cheaply as possible.

As I say, the rate in my State is 6 per cent. When you get this money back to the national bank it costs 5 per cent, and the national bank will loan it to the State bank, say, for 6 per cent. The State bank, then, will get nothing. It is too costly. You loan out the Government funds at 2 per cent. That is what you are doing all the time. Why should you make them pay 3 per cent for this?

Mr. BURTON. Mr. President, it seems to me the vital objection to the argument of the Senator from North Carolina is this: What he really advocates, that in which he seems to believe, is that whenever the operations of trade are clogged, whenever there is a deficiency of commodities or resources readily available, you can cure that situation by the issuance of paper money. But you can not do it. You must have commodities which are available to command gold or short-time credit. There is a vital difference between short-time and long-time credits.

Mr. SMITH of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. BURTON. In just a moment. In a very important sense the condition created by this slackened demand for cotton is a change from short-time operations, from commodities readily available, to those which are not readily available, and upon which realization must be postponed for a considerable time. That is the real substance of the situation. Now, it is impossible for you to cure that by simply issuing paper money.

Mr. SMITH of Georgia. But, Mr. President, I was just going to ask the Senator if he did not think this might be true—that the putting out of additional currency to enable these people to carry themselves for a few months, so as to prevent the sacrifice of their product, might be sound, that product being one which we know the world will demand, which we know is necessary to clothe the world, and which we know must have a permanent value in excess of the cost to produce it; and whether it would not be a sound policy to facilitate the producers of this commodity in holding it temporarily, meeting their immediate wants, and avoiding financial ruin by the sale of their product at one-third less than it cost them to produce it, when that product eventually must sell on the market for more than it cost to produce it? Is not that an unusual situation?

Mr. BURTON. It is an unusual situation.

Mr. SMITH of Georgia. Is not that an unusual situation that justifies a somewhat unusual line of procedure? That is the view I have of it.

Mr. BURTON. About the last statement I am not so sure. I am willing to strain any point within reasonable limits to relieve that situation; but I do not believe the Senator from Georgia will differ from me when I make the assertion that any monetary system has broken down which has provided as the redemption fund for paper money something upon which realization is a long time postponed.

Mortgage notes have been tried. Land warrants and various commodities have been tried. Of course, the classic example is the case of the enormous quantity of land in France that was made available as the basis for the issuance of currency, the so-called assignats. It has been universally found to be true that you can not issue a sound paper currency unless there is some means for its prompt, immediate redemption. That means either gold or some commodity that can be readily turned into gold. You can not issue it on cotton, upon which there can be no realization for a year or two. You can not issue it on mortgages, although you have the soil, the fundamental type of property, as its basis, because you can not immediately sell the security or property and realize upon it.

Mr. SMITH of Georgia. I want to say to the Senator that it has not been my view that the bankers who would let this money out on the cotton would let it out on a basis beyond what it would sell for instantly. The demand really has been for a mere small advance of money—$10 or $15 a bale—for cotton which 60 days ago would have sold for $75 a bale. That is all that the bankers who are securing the money are advancing to the farmers on their cotton—just a small sum.

Mr. BURTON. But if the basis is what the cotton will sell for immediately, what need is there for additional issues of currency? How is it distinguished from the ordinary case when conditions were normal and you were able to dispose of it readily?

Mr. SMITH of Georgia. For the reason that the bankers doing this peculiar line of fall settling business are not themselves in a position to go abroad and enlarge their currency at their own banks.

Mr. BURTON. If that be true, it seems to me that the difference is a vital one from that which has ordinarily existed, and that you are seeking to base your currency, your extension of credit, on commodities which do not have a ready sale. Now, for instance, loans of money on mortgages, to which I have already referred. As the Senator from Georgia very well knows, these have been made the basis for circulating notes in

quite a number of States. Those mortgages were taken at, say, 40 or 50 per cent of the value of the land; but the land could not be sold immediately and turned into money, and hence in time of stress the banks fell like a house of cards.

Mr. SMITH of Georgia. If the Senator will pardon me, in a few months' time, when this cotton which is not sold is put in the warehouses and warehouse certificates are issued, then you will have a basis for an immediate sale, good everywhere; but while the cotton is in transit from the field to the warehouse the only man who really will extend credit is the banker who knows the complete situation, and he is ready to do it if he is permitted to use his own privilege of note issue through the Vreeland-Aldrich bill.

Mr. BURTON. If, again, there can be realization when the cotton is put into the warehouse, I do not see that it creates a different condition, or one that is abnormal or exceptional in comparison with that which usually exists. It seems to me the facts show a different state of affairs—that here is a commodity which ordinarily is sold every autumn very promptly, and for which there is an enormous foreign demand, but which is now sold in quantities very much limited, very much less than ordinary.

Mr. President, it is true the proposition we have been discussing is a very simple one, the difference between a 2 and a 3 per cent tax upon circulating notes. But there is a great deal more in these proposals than that. The whole question of the use we shall make of emergency currency is before the Senate. I should view with nothing less than alarm any proposition which would look toward the permanency of this system, established in 1908 and never resorted to until 1914—a system which was by all its advocates understood to be a safeguard against panic and emergency, rather than one providing for the ordinary operations of trade.

Mr. SHAFROTH. Mr. President, I wish to say just a word in closing the matter before a vote.

All the legislation we have had in this Congress has been in the interest of helping out the smaller bank, and especially now is it the desire to help out the banks in the cotton States. We have, as you know, authorized an increase in the amount of currency that can be issued under the Aldrich-Vreeland Act from $500,000,000 to $1,250,000,000. That is directly in the interest of getting out more currency to relieve stringent conditions. Now, as it has turned out, by reason of the fact that the small banks all over the United States have not bonds which they can hypothecate with the Treasury Department for the purpose of issuing money under the Aldrich-Vreeland Act, the committee has desired to relieve that situation, and we have introduced a bill, which is now being considered, for the purpose of permitting banks, especially the small ones, to substitute for bonds, which are required now by the Aldrich-Vreeland Act, 75 per cent of commercial paper, representing transactions in commerce. Of course that is additionally secured by the obligation of the clearing house or the currency association, as provided in the Aldrich-Vreeland Act. That is a substantial relief. There has also been during this session of Congress, in the way of helping the issuance of this money and relieving the situation, a reduction of the rate of interest for the first three months from 5 per cent to 3 per cent. There are three distinct measures that have been brought before this Congress relieving the rigidity of the requirement of issuing money under the Aldrich-Vreeland Act.

Mr. President, the 3 per cent is active. Two hundred and fifty-six million dollars have been issued in the last 30 or 60 days under the Aldrich-Vreeland Act, which relieved the situation to that extent. I will state that the money is going to the Southern States to the extent of $25,000,000, and to the Senator's own State of North Carolina to the extent of $2,035,750. To reduce the rate of interest from 3 per cent to 2 per cent, in my judgment, will not make this an emergency currency; it will make it a currency that will be used for speculative purposes, and its tendency will be to keep it all out, and thereby you will have complications occurring.

It seems to me, Mr. President, in view of the situation and in view of the liberal action which this committee and this Congress has taken with relation to the Aldrich-Vreeland Act, we ought to vote down the amendment proposing to reduce the interest from 3 per cent to 2 per cent.

The VICE PRESIDENT. The question is on the amendment of the Senator from North Carolina [Mr. OVERMAN].

Mr. OVERMAN. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. NELSON. Let the amendment be read.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. It is proposed to add to the bill a new section, as follows——

Mr. OVERMAN. Instead of reading the very long quotation from the law, I will state that the amendment simply strikes out 3 per cent and inserts 2 per cent. That is the only change it makes.

Mr. NELSON. Very well.

The VICE PRESIDENT. The Secretary will call the roll on agreeing to the amendment.

The Secretary proceeded to call the roll.

Mr. GALLINGER (when his name was called). I have a pair with the junior Senator from New York [Mr. O'GORMAN], which I transfer to the Senator from Illinois [Mr. SHERMAN] and vote "nay."

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I had a letter from him this morning stating that I may use my discretion in voting upon this measure. I shall therefore vote upon this amendment. I vote "yea."

Mr. SMITH of Georgia (when his name was called). I have a general pair with the senior Senator from Massachusetts [Mr. LODGE], and have been unable to obtain a transfer. Therefore I withhold my vote.

Mr. OVERMAN (when Mr. STONE's name was called). I was requested by the Senator from Missouri [Mr. STONE] to state that he has been called away on official business and is paired with the Senator from Wyoming [Mr. CLARK].

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. I transfer my pair to the senior Senator from Nebraska [Mr. HITCHCOCK] and vote "nay."

Mr. WILLIAMS (when his name was called). I announce my pair with the senior Senator from Pennsylvania [Mr. PENROSE] and the transfer of it to the junior Senator from South Carolina [Mr. SMITH]. I ask that this announcement may stand for the day. I vote "yea."

The roll call was concluded.

Mr. FLETCHER. I am paired with the Senator from Wyoming [Mr. WARREN]. I transfer that pair to the Senator from New Jersey [Mr. HUGHES] and vote "yea."

Mr. PAGE. I desire to announce the necessary absence of my colleague [Mr. DILLINGHAM], and to state that he is paired with the Senator from Maryland [Mr. SMITH].

Mr. JAMES. I transfer the general pair I have with the junior Senator from Massachusetts [Mr. WEEKS] to the junior Senator from Tennessee [Mr. SHIELDS] and vote. I vote "yea."

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN] is paired with the senior Senator from Idaho [Mr. BORAH]. My colleague is detained from the Senate on account of illness in his family.

Mr. SMITH of Georgia. I transfer my pair with the senior Senator from Massachusetts [Mr. LODGE] to the junior Senator from Arizona [Mr. SMITH] and vote "yea."

Mr. GALLINGER. I desire to announce the following pairs:

The Senator from Idaho [Mr. BORAH] with the Senator from Virginia [Mr. MARTIN];

The Senator from Maine [Mr. BURLEIGH] with the Senator from New Hampshire [Mr. HOLLIS];

The Senator from New Mexico [Mr. CATRON] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Rhode Island [Mr. COLT] with the Senator from Delaware [Mr. SAULSBURY];

The Senator from Delaware [Mr. DU PONT] with the Senator from Texas [Mr. CULBERSON];

The Senator from West Virginia [Mr. GOFF] with the Senator from South Carolina [Mr. TILLMAN];

The Senator from North Dakota [Mr. GRONNA] with the Senator from Maine [Mr. JOHNSON];

The Senator from Rhode Island [Mr. LIPPITT] with the Senator from Montana [Mr. WALSH];

The Senator from Wisconsin [Mr. STEPHENSON] with the Senator from Oklahoma [Mr. GORE];

The Senator from Utah [Mr. SUTHERLAND] with the Senator from Arkansas [Mr. CLARKE]; and

The Senator from Michigan [Mr. TOWNSEND] with the Senator from Arkansas [Mr. ROBINSON].

The result was announced—yeas 16, nays 31, as follows:

YEAS—16.

Bankhead	Fletcher	Pittman	Thornton
Brady	James	Ransdell	West
Camden	Lea, Tenn.	Simmons	White
Chamberlain	Overman	Smith, Ga.	Williams

NAYS—31.

Ashurst	Chilton	Gallinger	Kern
Bryan	Crawford	Jones	Lane
Burton	Fall	Kenyon	Lee, Md.

McCumber	Oliver	Reed	Sterling
McLean	Page	Robinson	Swanson
Martine, N. J.	Perkins	Shafroth	Thomas
Nelson	Poindexter	Sheppard	Vardaman
Norris	Pomerene	Shively	

NOT VOTING—49.

Borah	Goff	Newlands	Stephenson
Brandegee	Gore	O'Gorman	Stone
Bristow	Gronna	Owen	Sutherland
Burleigh	Hitchcock	Penrose	Thompson
Catron	Hollis	Root	Tillman
Clapp	Hughes	Saulsbury	Townsend
Clark, Wyo.	Johnson	Sherman	Walsh
Clarke, Ark.	La Follette	Shields	Warren
Colt	Lewis	Smith, Ariz.	Weeks
Culberson	Lippitt	Smith, Md.	Works
Cummins	Lodge	Smith, Mich.	
Dillingham	Martin, Va.	Smith, S. C.	
du Pont	Myers	Smoot	

The VICE PRESIDENT. There is no quorum present. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Oliver	Shively
Brady	Kenyon	Overman	Simmons
Bryan	Kern	Page	Smith, Ga.
Burton	Lane	Perkins	Smoot
Camden	Lea, Tenn.	Pittman	Sterling
Chamberlain	Lee, Md.	Poindexter	Swanson
Chilton	Lewis	Pomerene	Thomas
Crawford	McCumber	Ransdell	Thornton
Fall	McLean	Reed	Vardaman
Fletcher	Martine, N. J.	Robinson	West
Gallinger	Nelson	Shafroth	White
James	Norris	Sheppard	Williams

The VICE PRESIDENT. Forty-eight Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of absent Senators.

Mr. BANKHEAD entered the Chamber and answered to his name.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present. The Secretary will call the roll on agreeing to the amendment of the Senator from North Carolina [Mr. OVERMAN].

The Secretary proceeded to call the roll.

Mr. FLETCHER (when his name was called). I make the same announcement as to my pair and its transfer as before and vote "yea."

Mr. GALLINGER (when his name was called). Announcing the transfer of my pair as on the former vote, I vote "nay."

Mr. JAMES (when his name was called). Making the same transfer that I made on the other vote, I vote "yea."

Mr. SMITH of Georgia (when his name was called). I transfer my pair with the senior Senator from Massachusetts [Mr. LODGE] to the junior Senator from Arizona [Mr. SMITH]. I will let that transfer remain for the balance of the day. I vote "yea."

Mr. THOMAS (when his name was called). I renew the announcement of my pair and its tranfer and vote "nay."

The roll call having been concluded, the result was announced—yeas 15, nays 33, as follows:

YEAS—15.

Bankhead	James	Ransdell	West
Camden	Lea, Tenn.	Simmons	White
Chamberlain	Overman	Smith, Ga.	Williams
Fletcher	Pittman	Thornton	

NAYS—33.

Ashurst	Kern	Oliver	Shively
Bryan	Lane	Page	Smoot
Burton	Lee, Md.	Perkins	Sterling
Chilton	Lewis	Poindexter	Swanson
Crawford	McCumber	Pomerene	Thomas
Fall	McLean	Reed	Vardaman
Gallinger	Martine, N. J.	Robinson	
Jones	Nelson	Shafroth	
Kenyon	Norris	Sheppard	

NOT VOTING—48.

Borah	Dillingham	Martin, Va.	Smith, Mich.
Brady	du Pont	Myers	Smith, S. C.
Brandegee	Goff	Newlands	Stephenson
Bristow	Gore	O'Gorman	Stone
Burleigh	Gronna	Owen	Sutherland
Catron	Hitchcock	Penrose	Thompson
Clapp	Hollis	Root	Tillman
Clark, Wyo.	Hughes	Saulsbury	Townsend
Clarke, Ark.	Johnson	Sherman	Walsh
Colt	La Follette	Shields	Warren
Culberson	Lippitt	Smith, Ariz.	Weeks
Cummins	Lodge	Smith, Md.	Works

The VICE PRESIDENT. No quorum voting, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Burton	Crawford	James
Bankhead	Camden	Fall	Jones
Brady	Chamberlain	Fletcher	Kenyon
Bryan	Chilton	Gallinger	Kern
Lane	Oliver	Shafroth	Thomas
Lea, Tenn.	Overman	Sheppard	Thornton
Lee, Md.	Page	Shively	Vardaman
Lewis	Perkins	Simmons	West
McCumber	Pittman	Smith, Ga.	White
McLean	Poindexter	Smoot	Williams
Nelson	Pomerene	Sterling	
Norris	Reed	Swanson	

The VICE PRESIDENT. Forty-six Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of absent Senators, and Mr. RANSDELL answered to his name when called.

Mr. SHIELDS entered the Chamber and answered to his name.

The VICE PRESIDENT. Forty-eight Senators have answered to the roll call. There is not a quorum present.

Mr. LEWIS. Touching the matter of a quorum, I will state that there are Senators in the Senate Office Building who probably might not have been apprised of this call for a quorum. I respectfully request that in proper form some of the deputies of the Sergeant at Arms be requested to inform personally the Senators that there is a demand for a quorum here. To the Senator from Montana [Mr. MYERS] and the Senator from Kansas [Mr. THOMPSON] I refer particularly. They will no doubt come at once if personally so requested.

Mr. GALLINGER. I trust the Sergeant at Arms and his deputies are doing that work diligently. They ought not to be instructed each time. It is their duty to try to find absent Senators.

The VICE PRESIDENT. The Senator from Illinois did not put it in the form of a motion.

After a little delay,

Mr. LEWIS. I now move that the Sergeant at Arms be specifically instructed to make investigation at the Senate Office Building and personally request Senators there present to attend the Senate in response to the demand for a quorum.

Mr. GALLINGER. Would the Senator be willing to include the baseball park?

Mr. LEWIS. I would not hesitate to include the park, except that the distance is such I am afraid the Sergeant at Arms could not reach there and return in time.

The VICE PRESIDENT. The Chair construes the motion of the Senator from Illinois to be one to request the attendance of absent Senators. The question is on agreeing to the motion.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will request the attendance of absent Senators.

Mr. MARTINE of New Jersey entered the Chamber and answered to his name.

The VICE PRESIDENT. Forty-nine Senators have answered the roll call. There is a quorum present. The question is on the amendment of the Senator from North Carolina [Mr. OVERMAN], upon which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. FLETCHER (when his name was called). I make the same announcement as before and vote "yea."

Mr. JAMES (when his name was called). I transfer my general pair with the junior Senator from Massachusetts [Mr. WEEKS] to the senior Senator from Nevada [Mr. NEWLANDS] and vote. I vote "yea."

Mr. THOMAS (when his name was called). I renew the announcement of my pair and its transfer and vote "nay."

The roll call having been concluded, the result was announced—yeas 16, nays 34, as follows:

YEAS—16.

Bankhead	Fletcher	Pittman	Smith, Ga.
Brady	James	Ransdell	Thornton
Camden	Lea, Tenn.	Shields	West
Chamberlain	Overman	Simmons	White

NAYS—34.

Ashurst	Kern	Norris	Sheppard
Bryan	Lane	Oliver	Shively
Burton	Lee, Md.	Page	Smoot
Chilton	Lewis	Perkins	Sterling
Crawford	McCumber	Poindexter	Swanson
Fall	McLean	Pomerene	Thomas
Gallinger	Martine, N. J.	Reed	Vardaman
Jones	Myers	Robinson	
Kenyon	Nelson	Shafroth	

NOT VOTING—46.

Borah	du Pont	Newlands	Stone
Brandegee	Goff	O'Gorman	Sutherland
Bristow	Gore	Owen	Thompson
Burleigh	Gronna	Penrose	Tillman
Catron	Hitchcock	Root	Townsend
Clapp	Hollis	Saulsbury	Walsh
Clark, Wyo.	Hughes	Sherman	Warren
Clarke, Ark.	Johnson	Smith, Ariz.	Weeks
Colt	La Follette	Smith, Md.	Williams
Culberson	Lippitt	Smith, Mich.	Works
Cummins	Lodge	Smith, S. C.	
Dillingham	Martin, Va.	Stephenson	

So Mr. OVERMAN's amendment was rejected.

Mr. SMITH of Georgia. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. It is proposed to add as a new section:

SEC. —. That the provisions and benefits of the act approved May 30, 1908, known as the Vreeland-Aldrich Act, and the amendments thereto, are hereby extended to all State banks and trust companies having a capital stock of not less than $25,000 and a surplus of 20 per cent. Said banks and trust companies shall be required to pay upon notes so issued the tax provided for in said act and the amendments thereto, and said notes shall not be subject to the provisions of the act of Congress approved February 8, 1875, known as "An act to amend existing customs and internal-revenue laws, and for other purposes." The Secretary of the Treasury is hereby directed to make such rules and regulations as are necessary for the purpose of carrying out the foregoing provision.

Mr. SMITH of Georgia. Mr. President, the purpose of this amendment is to permit State banks with the capital and surplus required of national banks to avail themselves of this emergency-currency law. No State bank will be permitted to avail itself of this emergency currency unless it has the capital and surplus required for a national bank. I have drawn the amendment in this way because I became satisfied it would not pass if extended to banks with less capital. The State bank would be compelled to join the currency association of the locality in which it is situated.

Mr. GALLINGER. Mr. President, I will ask the Senator from Georgia what is the objection to the State banks joining currency associations?

Mr. SMITH of Georgia. I do not know of any. I merely offer this provision to make it legal for them to do so. At present, if they join they would still be subject to the 10 per cent tax on their note issues provided by the act of 1875. This amendment of mine provides that if they join and receive and issue this currency they will only be required to pay the tax applicable to national banks—that is, 3 per cent for three months and one-half of 1 per cent increase—and will not be subject to the 10 per cent tax under the act of 1875.

Mr. GALLINGER. But the 10 per cent tax will apply to all other transactions in which they may be concerned?

Mr. SMITH of Georgia. To all others. This amendment does not affect the 10 per cent tax levied on State bank issues at all, except as to the particular issues under the Vreeland-Aldrich law to State banks. The State banks pay the same tax as do the national banks.

Mr. GALLINGER. I understand. I thank the Senator.

Mr. SMITH of Georgia. They will be required to join the local currency association, and the securities put up will be subject to the inspection of the committee representing the local currency association just as the securities of the national banks will be so subject.

Mr. CRAWFORD. They will not be subject to inspection by a national-bank examiner and have the same degree of governmental supervision, will they?

Mr. SMITH of Georgia. We add a provision directing the Secretary of the Treasury "to make such rules and regulations as may be necessary," and I should certainly favor providing that before taking any of their notes or allowing them to have any note issue they should be inspected by a national-bank examiner. So we have covered the ground fully in the amendment.

I will say that I have conferred with a number of Senators in regard to this amendment, and we modified it so as to meet the views of other Senators as well as myself. I do hope that the committee will accept the amendment.

Mr. POMERENE. Mr. President, a little while ago the question was asked by myself of the Senator from Georgia whether or not the State banks would have the authority to join the Federal reserve system or to avail themselves of its privileges without some enabling act of the State legislature. The Senator answered that a bank in his State would have such authority. Is the Senator able to advise us as to how many of the States have empowered banks chartered by them to accept privileges of this character?

In my own State, for instance, after the Federal reserve act was passed, the Ohio Legislature, by special act, authorized State banking institutions and trust companies to join the Federal reserve system. I have not seen the act since it was passed, but at the time the bill was prepared I did not have in mind the Aldrich-Vreeland provision, and I do not know whether there is any provision even in that act to authorize the State banks to accept the privileges which the Senator from Georgia seeks to confer upon them.

Mr. SMITH of Georgia. Mr. President, of course I am not familiar with the statutes of all the States or with the plan of organization of the State banks in all the States. This amendment would give some State banks the opportunity therein contained, where their charters permitted it and where the laws of the State permitted it; that is as far as we could go in congressional legislation. If there is something in the bank charters that excluded them, of course they would not come in to take the benefit of it; but where the State laws permit it, I think it eminently just that we should give them this opportunity.

Mr. VARDAMAN. Mr. President, I want to ask the Senator from Georgia a question. How long will the operation of this law continue?

Mr. SMITH of Georgia. Until July 1 of next year.

Mr. VARDAMAN. If the advantages to the State under this proposed law shall be as great as we hope they will be, the legislatures might be called together to consider the question of amending the State laws so as to accord with the Federal statutes if it were necessary. I agree with the Senator from Georgia that no harm could come from it.

Mr. SMITH of Georgia. The necessity is so great that I am certain, if it is found on examining the law of any State that there is any difficulty about it, the legislature may be called together in order to give the authority to the banks. This would be the course in States where a real necessity for the amendment exists.

Mr. BURTON. Mr. President, will the Seantor yield for a question, which I desire to ask for information?

Mr. SMITH of Georgia. Yes.

Mr. BURTON. What will be the status of the national currency association which, on the 30th of June next or on the 1st of July, will have a large amount of notes outstanding? Is there any compulsion resting upon it to redeem its notes? Of course it can not issue any notes after the 30th of June next unless the Aldrich-Vreeland law is extended.

Mr. SMTH of Georgia. Such notes are all subject to redemption at any time on presentation; and, as I understand, it is the duty, under the law, of the Secretary of the Treasury to make assessments upon such associations from time to time to meet the redemption of their notes.

Mr. BURTON. That is hardly expressed in the law, is it? Might not a bank or currency association keep outstanding notes for a long time after that date if it paid the 6 per cent?

Mr. SMITH of Georgia. I do not think it would do so and pay the 6 per cent. As to the State banks, we add that these notes are only to be issued to them under rules and regulations fixed by the Secretary of the Treasury.

Mr. BURTON. There is, however, Mr. President, a question just how far the expression "rules and regulations" would extend; whether the Secretary of the Treasury would be willing to make regulations which would have the effect of substantive law when Congress had omitted to act.

Mr. SMITH of Georgia. That is a question which goes not so much to this particular amendment as to the entire act. It is a subject to which I have not given careful attention.

My own impression has been all along that it is contemplated that all the notes should be retired after July 1 next. It has been my view of the general policy of the act that the notes would then be retired. I think the 6 per cent would safely retire them. If it did not, we could very easily impose an additional per cent.

Mr. SMITH of Michigan. And if we did not want them retired, we could reduce the rate. The amendment affords ample latitude. Congress ought to give no more. In my judgment, Mr. President, these notes never will be retired. Even under the new system emergency currency lies in the Federal Treasury subject to a broad discretion in the Secretary of the Treasury, and I fear it will not be retired when the habit of using it is fixed. I may be wrong about that.

Mr. SHAFROTH. Does not the Senator think that the interest rate will retire it?

Mr. SMITH of Michigan. That would depend entirely upon the condition of the country.

Mr. SMITH of Georgia. In normal conditions the high interest rate would retire it. No bank could do business on the basis of paying 6 per cent.

Mr. SMITH of Michigan. In normal conditions we have not used it all. The law has been on the statute books for six years and not a dollar of emergency currency has been withdrawn from the Treasury until the present time.

Mr. SMITH of Georgia. This subject has been discussed more or less in the general debate, and I will not take the time of the Senate to discuss it unless the amendment is opposed. I do hope that it will be adopted.

Mr. SMITH of Michigan. The pending amendment, as I understand, is the amendment of the Senator from Georgia?

Mr. SMITH of Georgia. This is my amendment, or, I should state, that it is about as much the amendment of the Senator from Michigan, and of the Senator from Utah, and of the Senator from Arkansas, and of the Senator from Louisiana, and of a number of other Senators as it is mine. I simply present it as the work of several Senators.

Mr. SMITH of Michigan. It goes further than the one I proposed.

The VICE PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Georgia.

Mr. SHAFROTH. Mr. President, I should like to be heard on this amendment for a few moments. The amendment which has been offered by the Senator from Georgia, in my judgment, should not prevail. In the first place, it is an effort to change a system that has already been established under a law which has been on the statute books for some years by an amendment which has not even been printed, but which has been proposed from the floor and has not been read by one out of ten Senators.

Mr. SMITH of Georgia. Oh, yes; it has.

Mr. SHAFROTH. I do not think more than nine Senators have read it.

Mr. SMITH of Georgia. More than 10 Senators saw it before it was presented.

Mr. SMITH of Michigan. It is substantially the same as the amendment presented by me on yesterday, which has been on the desks of Senators.

Mr. SHAFROTH. But, Mr. President, it has not been referred to the committee, and in its present form it has not been referred, as a matter of fact, to the Federal Reserve Board or to the Treasury Department. While we do not have to follow what the Federal Reserve Board and the Treasury Department may recommend, yet their judgment upon a matter is worth considerable, especially concerning financial legislation.

Mr. President, by this amendment it is proposed to mix two systems. The Aldrich-Vreeland bill relates only to national banks. That law sets forth the requirements as to how national banks shall organize currency associations; it is confined to national banks; and stipulates that the banks composing a currency association must have at least $5,000,000 in capital and surplus before they can apply to the Treasury for the issuance of emergency currency.

Of course, it is intended that only national banks should form such associations, because the Treasury Department knows the condition of the national banks; they have been under the control of the Comptroller of the Currency, and the Comptroller of the Currency knows whether national banks are solvent; but he can not know whether or not State banks are solvent. It may be that they are or it may be that they are not. Consequently, it seems to me unwise to attempt to engraft on a national banking act provisions granting certain privileges to State banks; it is mixing matters; it takes the Treasury Department into a domain where it has not usually exercised jurisdiction. On all these grounds, therefore, it appears to me that the amendment is subject to severe criticism.

If we are going to have a national banking system, it seems to me it ought to apply to the Federal system, and the Federal system alone. If you do not do that, you are going to have inadequate examinations, and there will arise many questions to be determined.

As to the repeal of the 10 per cent tax on the issue of State banks, it may be that the amendment is confined, as the Senator has attempted to confine it, and it might not repeal the 10 per cent tax on note issues as to private banks; but, at the same time, that 10 per cent tax on private banks has been a most wholesome check in preventing the issuance of paper money, regarded generally as wildcat paper before the war.

It seems to me that the amendment ought to be referred to the committee; it ought to have careful consideration; it ought not to be adopted merely upon a Senator rising and presenting it in typewritten form when, of course, Senators can not comprehend its full significance by a mere reading. It is difficult to understand its relation to the entire system, because while there are many provisions which it seemingly might not affect, in reality it might affect them.

Mr. President, there is another feature of the amendment to which I desire to advert. If we are going to give to the State banks the benefit of all of the legislation of the Federal system, without requiring them to come into the Federal system and without requiring them to have the capital that is required of the banks in the Federal system——

Mr. SMITH of Georgia. That is required. The amendment provides that they must have a capital of at least $25,000.

Mr. SHAFROTH. Now, Mr. President, I will read the amendment.

Mr. NELSON. Mr. President, will the Senator yield to me for a moment?

Mr. SHAFROTH. Certainly.

Mr. NELSON. In view of the great importance of this subject and of the character of the amendment, I do not think it is necessary to make such excessive speed. I suggest to the Senator from Colorado that he have the bill, with this amendment, recommitted to the Committee on Banking and Currency to the end that it may be carefully examined.

Mr. SHAFROTH. Well, Mr. President, I hardly feel that we ought to do that. The pending bill is an emergency measure, and if it were recommitted to the committee it might be delayed a considerable length of time. I want to read this amendment and see what it provides. It is as follows:

SEC. —. That the provisions and benefits of the act approved May 30, 1908, known as the Vreeland-Aldrich Act, and the amendments thereto, are hereby extended to all State banks and trust companies having a capital stock of not less than $25,000 and a surplus of 20 per cent. Said banks and trust companies shall be required to pay upon notes so issued the tax provided for in said act and the amendments thereto, and said notes shall not be subject to the provisions of the act of Congress approved February 8, 1875, known as "An act to amend existing customs and internal-revenue laws, and for other purposes." The Secretary of the Treasury is hereby directed to make such rules and regulations as are necessary for the purpose of carrying out the foregoing provision.

Mr. President, there is no word there requiring an inspection of the State banks as to their solvency, nor is there any requirement as to an examination of the currency associations that must be organized by the State banks. It seems to me that the amendment is immature.

Mr. SMITH of Georgia. There is no authority for them to organize a new currency association. They will have to enter the currency association of the locality in which the banks are situated.

Mr. SHAFROTH. That can not be, Mr. President, because the present statute provides that the national banks shall organize currency associations, and not State banks.

Mr. NELSON. Will the Senator yield to me?

Mr. SHAFROTH. Yes, sir.

Mr. NELSON. I think the amendment is very vague and indefinite. There is no provision in it requiring the State banks to join and become members of currency associations. It is only by implication that it can be said that is required.

Mr. SMITH of Georgia. It does not require that.

Mr. SHAFROTH. Well, under the law as it now is, where would a State bank have the right to join a Federal currency association such as is provided for in the Vreeland-Aldrich law? The Vreeland-Aldrich law provides that the currency association contemplated shall be composed of national banks. Now, unless you change the law and amend that section of the Vreeland-Aldrich law so as to permit State banks to enter currency associations it seems to me they would be excluded, even if you were to adopt this amendment.

Mr. President, the difficulty is that the pending bill does not propose a revision of the Vreeland-Aldrich Act. It simply seeks to amend that act in one particular, and that one particular is to permit commercial paper to be hypothecated as security for the issuance of currency to the extent of 75 per cent of the value of such paper instead of 30 per cent. To engraft upon the bill something that will change its entire character does not seem to me to be wise.

Furthermore, it does not seem to me to be right that we should have a Federal system of banks into which we hope to get all the State banks and yet give the State banks the benefit of the Federal laws without requiring them to come into the system. It seems to me that if we are to extend the benefits and the privileges of the Federal laws to the State banks there ought to be an obligation upon the part of those banks to sustain the system and to sustain the Federal laws with relation to it. In other words, there is a mixing of banks that are authorized under State jurisdiction and banks that are organized under the Federal reserve act.

If this amendment is to be acted upon, it should be read and reread and compared carefully with the Aldrich-Vreeland Act and also with the Federal reserve act; it should be criticized and examined closely before it is made a part of the law.

I can not believe that it is wise to mix our Federal laws with State laws; I do not believe it is wise to have State banks come into the Federal system in this way, when there is a procedure prescribed and they can organize as national banks. If they want to do so, they can come into the system; they can secure the benefit of the Federal reserve act if they desire to do so; they can get the benefit of the Aldrich-Vreeland Act, if they

want to, simply by converting themselves into national banks; but to offer a premium to State banks to have them continue their organization as State banks, and then to give them the advantages of the Federal system, when we desire to have one uniform system, seems to me to be a grave error upon the part of Congress. I hope the amendment will be rejected.

Mr. SMITH of Georgia. Mr. President, the burden of the Senator's argument is that the State banks could nationalize and that it is unwise to mix the two. Why, Mr. President, our Federal reserve bank bill, passed last December, reported from the committee of which the Senator is an able member, permits the State banks to come into the Federal reserve system without abandoning their State charters.

Mr. SHAFROTH. Yes; but your amendment does not even propose that they shall become members of the Federal reserve system.

Mr. SMITH of Georgia. No; it proposes that they shall become members of the local currency organization in the State to get the benefit of an act applicable only to banks in that currency organization. Just exactly as you permitted the State banks to join the Federal reserve system, so this amendment allows a State bank to join your currency organization in its State. There is no more mingling of State banks and national banks by the amendment I propose than we ourselves mingled them in the Federal reserve bank act when we permitted a State bank to take stock in the Federal reserve banks without giving up its State charter and to receive all the benefits of our new banking and currency act while still remaining a State bank. So the proposition that the State bank is to have the right to come with a national bank and derive benefits from a particular piece of Federal legislation follows the very measure that we passed last December.

Mr. POMERENE. Mr. President, if the Senator will permit me, under the national banking act the Comptroller of the Currency can go into a national bank at any time and inspect it. If he finds mismanagement of such a character as would jeopardize either the interests of the depositors or the interests of the stockholders or the currency which has been issued, he can appoint a receiver and wind up the affairs of the bank. Under the proposition which is embraced in the amendment proposed by the Senator from Georgia the National Government would be entirely without any power of inspection, of investigation, or of winding up the affairs of a bank in the event there was any trouble of the character I have indicated.

Mr. SMITH of Georgia. Mr. President, the power of inspection and supervision is guarded by this amendment. The power to appoint a receiver does not exist, nor does the power to appoint a receiver exist, in the case of a State bank which joins the Federal reserve association.

Mr. POMERENE. Mr. President, under the Federal reserve act the State banks that join this system are subject to all the examinations and to all of the provisions of the Federal reserve act.

Mr. SMITH of Georgia. Not to the appointment of a receiver, as I understand.

Mr. SMOOT. Mr. President, in that connection I wish to say to the Senator that it would be impossible for the United States to lose any money. The United States holds ample security. Not only does it hold the collateral security, but it holds the credit of the currency association that initiates the loan for the bank; so it is impossible for the Government of the United States to lose anything.

Mr. SMITH of Georgia. That feature of the objection can hardly be given any serious weight. As the Senator says, the whole credit of the currency association to which the State banks will belong in order to receive this currency is behind the notes issued to the State banks, just as much as it is behind the notes issued to one of the national banks in the currency association, so that the safety of the currency and the safety of the security is the same in both instances.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Montana?

Mr. SMITH of Georgia. Yes.

Mr. WALSH. I should like to inquire of the Senator from Georgia whether he contemplates that the State banks shall enter associations already established by the national banks or whether they shall establish associations of their own?

Mr. SMITH of Georgia. No power is given them to establish separate organizations. They fall within the provisions of the Aldrich-Vreeland Act, which requires all of the banks in a particular locality to be members of the same currency association.

Mr. WALSH. I have the act before me. It provides that upon the application of any bank to the Secretary of the Treasury he may admit it, so that the State bank would make application to the Secretary of the Treasury for admission into that association.

Mr. SMITH of Georgia. It would apply to join that currency association.

Mr. WALSH. Yes. Now, the question arises, How does the Secretary of the Treasury get any information that will enable him to make up his judgment as to whether or not the bank is safe enough to go into it?

Mr. SMITH of Georgia. I do not think there will be any trouble about that. It will be very easy for him to gather the desired information.

Mr. WALSH. Of course, so far as the national banks are concerned, he simply calls in the comptroller and gets the information in that way.

Mr. SMITH of Georgia. Yes; he has that facility, but the standing of banks is well known.

Mr. SHAFROTH. Mr. President, I should like to ask the Senator a question. Suppose the national banks should say, "No; we do not want you in our system. We are not willing to take in the State banks." What are you going to do then?

Mr. SMITH of Georgia. The Secretary of the Treasury would have the right to admit them.

Mr. SMOOT. The currency association would have that right also.

Mr. SHAFROTH. I do not know whether it would or not. We are mixing up State laws with national laws.

Mr. SMITH of Georgia. There will be very little trouble about that. The currency association itself would pass upon their securities when they were presented, and the officers of the currency association would have to pass those securities as good securities before they could go to the Secretary of the Treasury for his consideration.

So far as my own State is concerned, I am sure a large number of the banks will be welcomed by the currency association to its membership. You have, first, the safety of the Secretary of the Treasury declining to let them join if he wishes. You have, then, the safety of the officers of the currency association passing upon their securities before they go to the Secretary of the Treasury. Then the Treasury Department must approve their securities. So the security is ample.

Mr. SMOOT. In that connection, may I call attention to the wording of the law, to show how broad and how comprehensive it is? I find in the law this provision:

> The banks and the assets of all banks belonging to the association shall be jointly and severally liable to the United States for the redemption of such additional circulation; and to secure such liability the lien created by section 5230 of the Revised Statutes shall extend to and cover the assets of all banks belonging to the association.

What more security could the United States ask?

Mr. SMITH of Georgia. I first prepared an amendment, which I thought I would offer, permitting the State banks to form a separate currency association and to issue independent notes; but it seemed to me that the safer plan, the stronger plan, the better plan was not to give them any such privilege by themselves, but to let them come into the currency association of their locality, to subject them to the approval of the Secretary of the Treasury before they could join, and subject their securities to the approval of the officers of the currency associations already organized and already in full operation.

It was suggested by the Senator from Colorado that the committee had not investigated this proposition carefully. Why, the committee reported and the Senate, on August 4, adopted a provision upon this subject. In the act approved August 4, 1914, coming from the Committee on Banking and Currency, was the following proviso:

> *Provided further*, That the Secretary of the Treasury, in his discretion, is further authorized to extend the benefits of this act to all qualified State banks and trust companies which have joined the Federal reserve system or which may contract to join within 15 days after the passage of this act.

So the subject has been before the committee. The committee has considered a subject of this kind, and the committee has entertained the opinion that the State banks ought to come in.

One of the limitations placed upon the State banks was that they should join the Federal reserve association within 15 days. I know of a number of State banks in my State that contracted to join the Federal reserve association, and the Treasury Department held that this provision did not carry with sufficient clearness the exemption of the State banks from the 10 per cent tax carried by the act of 1875; and thereupon the banks abandoned any further procedure to take advantage of this provision of the act of August 4, 1914, which the committee gave us. They abandoned it because they found that their notes would be held by the Treasury Department to have a double tax—the

Vreeland-Aldrich tax and the 10 per cent tax of the act of 1875—put upon them.

So, really, in this amendment we are simply seeking to do what we have had suggested to us by the committee. We are seeking to enact what I thought at the time was a splendid suggestion that came from the committee. A number of State banks have been contemplating taking advantage of this act, and began making their arrangements to use it, some of them having actually gone to the extent of presenting applications which amounted to contracts to join the Federal reserve system.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. SMITH of Georgia. I do.

Mr. REED. With the Senator's permission I will suggest to him that the amendment to which he refers, contained in the act of August 4, 1914, and which was an amendment to the Federal reserve act, was in this language:

Provided, That the Secretary of the Treasury, in his discretion, is further authorized to extend the benefits of this act to all qualified State banks and trust companies which have joined the Federal reserve system, or which may contract to join within 15 days after the passage of this act.

It will be observed, first, that the language adopted at that time vested in the Secretary of the Treasury the discretion to admit or to reject; second, that in order to obtain the benefits of the act the State bank or trust company was obliged to join the Federal reserve system. Is it not true that the Senator's present amendment omits both of those qualifications?

Mr. SMITH of Georgia. It does.

Mr. REED. Is it not also true that under the act of August 4, to which I have just referred, vesting in the Secretary of the Treasury the discretion to permit or not to permit a State bank to have the benefit of this system, and under the further provision requiring the State banks to seek membership in the Federal reserve system, the Secretary of the Treasury was thereby empowered to examine these banks upon their application to come in, and thus was able to advise himself of their financial situation? Is not that omitted from the Senator's present proposition?

Mr. SMITH of Georgia. No; I do not think the latter provision is omitted, because we added at the close of this amendment that the banks should be admitted only under such rules and regulations as the Secretary of the Treasury might prescribe, and what we had in view was that when, under the Vreeland-Aldrich Act, they applied for admission they would apply subject to such examination as he by these rules would require, and clearly the power is given him to designate the system of examination that he would make before he admitted them.

Mr. REED. Now, let me ask the Senator another question.

Mr. SMITH of Georgia. Just one word more in answer to the Senator. I think clearly this amendment covers that part of it—the examination feature and the discretion as to the standing of a bank before it is admitted. Undoubtedly, however, the Senator is right in saying that this amendment does not require that the State banks, to obtain the benefit of this emergency law, shall at once contract to join the Federal reserve system. In that connection I will state to the Senator, as that was the first part of his question, why that was omitted.

There are a number of excellent State banks which contemplate within my knowledge eventually joining the Federal reserve system, which hold a class of securities in the shape of mortgages upon real estate in excess of 25 per cent of their capital stock, and they are taking steps to liquidate those mortgages and to put them in different shape so as to be in a position to take stock in the Federal reserve banks.

Mr. REED. Now, let me put another question to the Senator. I am coming to the practical part of this question, or, rather, to one of the practical sides, for I think it has several.

The Federal reserve system, it is contemplated, will be in operation within 90 days. How many State banks and trust companies could the Treasury Department examine and grant relief to in that period of time, particularly when the reason why these State banks and trust companies have not already become national banks is because their business has been of such a character as to bar them from becoming national banks?

Mr. SMITH of Georgia. I do not think the Secretary of the Treasury would be required to make any great examination into the entire condition of the banks. The securities they bring forward to the currency association would be scrutinized by the officers of the currency association, and as the banks represented by the officers of the currency association would become jointly liable for the obligations of the banks coming into the currency association, securities would be required amply sufficient to protect the notes, or else the notes would not go out to the State banks.

Mr. REED. I grant you that if a State bank were to come into a currency association organized by national banks, that association being a perfectly solvent one, it might well be said that the addition of a State bank or two would not make any difference; but if the State banks outnumbered the national banks by three to one as they do in the Senator's own State, if I correctly recollect the statement——

Mr. SMITH of Georgia. They do in number, and about two to one in capital; but the number that could join, limited by this requirement of $25,000 of capital and 20 per cent of surplus, is about the same in capital as the national banks.

Mr. REED. Then you would, or might, inject into this currency association enough State banks so that one-half of the capital would be represented by State banks, not one of which the Government has the slightest power to examine, not one of which has ever been examined by the Government, and all of which are doing a character of business now prohibited to the national system of banks.

Mr. SWANSON. The currency association would examine them.

Mr. REED. I heard the remark of the Senator from Virginia that the currency association would examine them. How do you know that a currency association to be composed of a majority of State banks and trust companies, and possibly dominated by that majority of State banks and trust companies, would examine with the degree of particularity which is necessary?

Mr. SMITH of Georgia. In the first place, the suggestion of the Senator implies the fear that at least a majority of the State banks themselves are not doing a careful business. That suggestion, I think, could not be sustained. The large majority of State banks in every State, I think you will find, are just as sound, and just as solvent, and just as careful as the national banks.

Mr. REED. I would not agree to that proposition. I am not at all reflecting upon the State banks, but I do not think they are, taking them as a whole.

Mr. SMITH of Georgia. Well, possibly not as a whole; but I said the large majority of them.

Mr. SMOOT. The panic of 1892-93 demonstrated that they were.

Mr. REED. Oh, I do not think that follows.

Mr. SMOOT. There is not any question about that.

Mr. SMITH of Georgia. The State banks had no larger percentage of failures than the national banks in 1893, I know.

Mr. SMOOT. That is what I had reference to.

Mr. REED. I want to follow this a little further.

Mr. SMITH of Georgia. I know the Senator is conducting an investigation and an inquiry, about which he is perfectly frank, and I answer him by saying that there will be no danger from that source. A few weak State banks might get into the currency association, but the large majority of them would be perfectly strong and sound, and would join with the best national banks in watching the collateral put up with just as much care and zeal as the best national banks would watch it.

Mr. VARDAMAN. Mr. President, may I ask the Senator a question?

Mr. SMITH of Georgia. The Senator from Missouri had not finished his question.

Mr. REED. I will give way to the Senator from Mississippi.

Mr. VARDAMAN. If the Senator and other Senators object to the amendment because they fear that a proper scrutiny would not be made of the affairs of the State banks, what would be the objection for providing for that in the amendment? Certainly nobody objects to the most careful scrutiny being given.

Mr. SHAFROTH. Mr. President, the Treasury Department could not inspect these banks in the nine months that the Aldrich-Vreeland Act lasts.

Mr. VARDAMAN. There will be no trouble about that. Now, as a matter of fact, we have in my State a law that is very rigidly enforced for examining the State banks. We have a State bank examiner. There will be no trouble about that. They could examine them in 30 days, if necessary.

Mr. REED. I wish to suggest to the Senator——

Mr. SHAFROTH. Mr. President, it sometimes takes an examiner two or three weeks to examine one bank, and if the Federal system is going to depend upon State inspection there is no security to it. Of course banks usually pay, but you have got to watch out for the critical times when they will fall down.

Mr. VARDAMAN. I hardly think every bank would have to have its affairs gone over exhaustively. It would be only those banks upon which suspicion rested. That is a matter of

detail, however, that need not vex the minds of Senators just now.

Mr. SMOOT. Mr. President, if I may make a suggestion to the Senator from Missouri, in further answer to what the Senator from Georgia has already stated in regard to the State banks entering the currency associations in such numbers that they might control the associations: First, no State bank can become a member of a currency association without first receiving the consent of the association; secondly, the currency association is compelled to refer the application to the Secretary of the Treasury before ever it can grant the privilege. So it is not very likely that the association is going to allow the State banks to run away with it; and if they even did undertake it, the Secretary of the Treasury would not allow it.

Mr. BURTON. Mr. President, I should like to ask the Senator from Utah in what provision of the law he finds the veto power of the members of the association to prevent a new bank from coming in?

Mr. REED. Mr. President, the question suggested by the Senator from Utah was in line with one to which I intended to call attention.

Mr. BURTON. It seems to me the Aldrich-Vreeland Act always was lacking in definiteness as to the admission of new members, and I am not aware that there is any provision that gives the directors of the association the right to refuse an applying bank.

Mr. SMOOT. Mr. President, I have not the provision before me, but I do know that within 10 days the question came up of some of the banks in Salt Lake City joining the San Francisco association. I was advised by the Secretary of the Treasury that they would first have to make application to the currency association, and the currency association would pass upon the application, and it would be referred to Washington and be passed upon by the Secretary of the Treasury. The Secretary told me, in order to hasten the securing of a final permit, to wire the banks in Salt Lake City that they could make their application in duplicate form, send one copy to the currency association at San Francisco and one copy to the Treasury here, and he in turn would telegraph to the currency association at San Francisco to let him know by wire whether or not the application was accepted, and he would act on that telegram.

Mr. SMITH of Georgia. Mr. President, I think I can answer the Senator from Ohio. The language is general, and the language of the act largely left it to the Treasury Department to work out the detailed plan. In practice the rule is that the Secretary of the Treasury considers the application from a bank only after it has been approved by the local currency association.

Mr. SMOOT. That is it.

Mr. SMITH of Georgia. And he admits banks to membership with the approval of the local currency association. I know that has been the practice with our association.

Mr. BURTON. But, Mr. President, suppose Congress passes a law making State banks not members of the Federal reserve association eligible for this membership; would not that create a very embarrassing situation for an existing association if it sought to refuse membership? Is there not some ground for irritation and friction on the part of banks organized under national charters when asked to associate with those organized under State charters?

Mr. SMITH of Georgia. Mr. President, a week ago last Monday I was in the city of Atlanta, and was advised that all the collateral presented by a certain bank for note issues was turned down, and the bank was courteously told that the officers did not feel disposed to encourage it to receive any notes on the character of collateral presented.

Mr. BURTON. That probably was a conservatively and well managed bank.

Mr. SMITH of Georgia. I think you will find that these currency associations, where nothing is to be gained by permitting the issue of currency to some other bank, and where absolute liability for such issue on their own banks is the consequence, are as conservatively managed and as carefully guarded as any institutions that can be found anywhere. Senators should bear in mind that the officers of these currency associations, five in number usually, who give their time to passing upon these credits, represent five of the most important banks in the territory, and they approve securities only for the benefit of the bank receiving them and the benefit of the public. When they approve them they make their own banks guarantors of those securities, and guarantors of the capacity of the bank to meet the notes it receives, with no gain to themselves and no profit to their own banks and no object in view but the public good. As this act was drawn, they guard all note issues as they guard their own credits, and, in fact, far more closely than they guard even their own loans.

Mr. PAGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Vermont?

Mr. SMITH of Georgia. Yes.

Mr. PAGE. I should like to ask the Senator a question. I have just been home, as the Senator knows, and while there I had occasion to inquire of some national-bank officials as to whether or not they would enter the national currency association.

Mr. SMITH of Georgia. State banks?

Mr. PAGE. National banks. I found quite a considerable amount of opposition to entering the currency associations, because each bank had to become jointly and severally responsible for all the other banks; and banks that were strong reasoned in this way: "Why should we go in, when we know that we shall have no occasion to want currency, and become responsible for the weaker banks?"

It occurred to me that you might break down the whole system if you insisted that the weaker State banks should be admitted to this association. I understand that under your amendment any bank with $30,000 of capital and surplus—$25,000 capital and $5,000 surplus—may enter. It seems to me there might be an objection on the part of the stronger national banks to entering this currency association. The point I would call to the attention of the Senator is this: A national bank is not only liable to the extent of its capital and surplus, but its stockholders may be assessed. That may be true as to the State banks in some of the States, although I presume there are several States which do not have that law.

Mr. SMITH of Georgia. In most of the States that is true.

Mr. PAGE. But I think there are some where there is not now this double liability, and it seems to me that if we are to take in these banks that do not——

Mr. SMITH of Georgia. I stated that in most of the States they have a double liability.

Mr. PAGE. But there are some that do not.

Mr. SMITH of Georgia. There may be.

Mr. PAGE. If we take in those banks that do not have a double liability, we tend to discourage the stronger banks from entering the association. More than this, the Senator knows that a national bank is compelled under the banking laws to have liquid assets, so that it may be able to meet any demands upon it at any time, while the State banks, especially in the South, which, I suppose, loan largely on real estate, have assets that are not liquid, and in case of any trouble they could not respond as national banks could.

I am interested in a State bank, and so far as my personal interest is concerned I would, perhaps, be with the Senator; but it seems to me that we are liable, possibly, to break down the whole system if we undertake to inject into it a lot of banks that have not the double liability, a lot of banks whose assets are such that they could not, in case they were called upon, respond under the provisions of the Senator's amendment.

Mr. SMITH of Georgia. But the Senator must bear in mind that here are officers of other banks who when they allow one of these banks to receive any currency becomes liable themselves for it, and they require that bank to put up a collateral, a security which they know so that they know they can get the money several times over before they furnish the notes.

Mr. PAGE. But while that is true its transactions are such and the assets of the bank are such that prompt liquidation would be contingent largely upon sales of cotton, lumber, and like commodities, which can not to-day, and may not in a year from to-day, be quickly realized upon so as to respond to any call.

Mr. SMITH of Georgia. No; I said that the large State banks carried a part of their loans on real estate. That at present makes them ineligible to connection with the reserve banks; but I did not mean at all that they had no other support or had no other quick assets, but beyond question that the assets which will be required by the clearing-house association will be quick assets.

Mr. PAGE. I should not doubt that the assets required would be good assets.

Mr. SMITH of Georgia. And quick assets.

Mr. PAGE. But they might be based upon cotton, and I understand that cotton to-day is not a quick asset.

Mr. SMITH of Georgia. They will be assets that the officers of the clearing-house association would be willing to take for the currency issued. You can absolutely count on that.

Mr. PAGE. But, if I may be allowed, I should like to suggest to the Senator that a strong national bank, with its assets liquid, so that it can at any time respond to any call upon it,

may have serious question as to the advisability of entering an association where the banks of the association are largely made up of little banks, many of them, perhaps, with $20,000 capital and $5,000 surplus, and with practically nothing in the way of liquid assets to enable them to respond to a call in case a call is necessary.

Mr. SMITH of Georgia. They would not extend to such a bank the privilege of issuing any notes, because they would reject its security.

Mr. PAGE. In any case those banks are not as strong as the national banks with which they are called upon to associate. They are not as strong——

Mr. SMITH of Georgia. If a bank with $25,000 capital or $30,000 total came up to obtain an issue of 75 per cent of its capital, $22,500, that bank would not get the notes and would not be allowed the privilege of issuing the notes by the officers of the currency association unless it put up for the notes good assets that could be turned certainly into cash before the notes were called.

Mr. PAGE. But, for all that, the Senator will agree that it would certainly mean a great lowering of the average strength, a great lowering of the ability to promptly meet a demand, and a great lowering in the liquidity of their assets.

Mr. SMITH of Georgia. No; I do not admit it. As to the size of the issue their assets will be as good as those of the large banks. Compared to the size of their issue they will be smaller units and much smaller issues.

Mr. SMOOT. And less liable to fail.

Mr. SMITH of Georgia. Their history has been that they are certainly no more liable to fail. The only bank we have had that failed in the past two years in my State was a national bank, so far as I can recall.

Mr. PAGE. I desire to ask the Senator a question predicated upon the information I received in the past week in discussing this question with national bankers in Vermont.

Mr. SMITH of Georgia. There are some large banks that do not need the benefit of the currency association and do not join it.

Mr. PAGE. Those currency associations must have a capital of $5,000,000.

Mr. SMITH of Georgia. That is true.

Mr. PAGE. We have in Vermont national banks with an entire capital of only seven or eight million dollars, and you could not get an association there with the required five million capital if you left out the stronger banks, which, perhaps, would not come in if they had a fear that they were going to be associated with banks not as strong in liquid assets as they were.

Mr. SMITH of Georgia. It is the stronger banks that have already joined. It would be a strong association and they are amply able to guard themselves against any weak banks.

Mr. PAGE. I confess they can do it; but let me suggest to the Senator that it might cause some of the stronger banks that ought to be in the association to keep out.

Mr. SMITH of Georgia. The stronger banks that have not already joined are not going to join. I think that is practically certain. They are in control of the stronger banks. Their officers have been selected. They are officers of the strong bank.

I say frankly, Senators, this is the only plan I can see to relieve a condition in half a dozen States that is deplorable. I believe it will relieve that condition in the States of North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana. Texas has the largest number of national banks in proportion to its banking capital by far of those in the South. I am not sure that Texas needs it as these States do, but the national banks in these States carry the heavy business, the heavy commercial business, the large wholesale houses, the large merchants. Many of the State banks with quite a large amount of capital and with excellent surplus are located more in the rural sections. They are just as solvent, their notes are just as good, not for as large a sum as the big national banks, but for the extent to which they are used they are just as good.

Mr. PAGE. Are the banks the Senator refers to now able, and would they be able in case there was a demand for the prompt liquidation of their paper, to get the money from their assets?

Mr. SMITH of Georgia. Absolutely.

Mr. PAGE. Where would it come from?

Mr. SMITH of Georgia. I will tell you. They have good notes. They have good mortgages on real estate that will sell, and sell quickly. They loan only about 25 per cent of their money, perhaps 20 per cent. Their loans are not for the purchase of real estate; their loans are for the conduct of farm business.

Mr. PAGE. I do not see where they would get quick money from in case they were called upon to liquidate.

Mr. SMITH of Georgia. The paper would sell.

Mr. PAGE. Where would they find customers for it?

Mr. SMITH of Georgia. They would find a customer, if necessary, at a discount, not at its face. They will put up 2 for 1.

Now, what will they do with this money? I will give you that. This money that these banks get will be advanced at about $10 a bale on cotton. That is about all the farmers there are asking for. The money would largely be advanced by these State banks at a small sum; that would be about 2 cents a pound.

Mr. PAGE. My experience is——

Mr. SMITH of Georgia. The advances will largely be made on security that can be sold in any market to the amount on which they make the advances.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. PAGE. Just one sentence, if the Senator will allow me. We understand that the difference between a State bank and a national bank is largely this: The national-bank system is predicated upon the idea that the assets shall be liquid. The State system is predicated upon the idea that the loans are largely made to farmers, who can not pay, who do not expect to pay, except at their convenience. I know of banks that have millions of dollars of notes due on demand secured by farms, and in case they were compelled to raise money to pay a pressing demand it would be difficult to do it. The notes would be good; there is no question about that. They are just as good as the Bank of England, and better perhaps, but they are not liquid, and you can not get quick money out of them.

Mr. SMITH of Georgia. I want to say to the Senator that, so far as these currency associations in the States in which I am especially interested are concerned, the bank that gets the privilege of an issue from them, where they themselves become liable for that issue, will put up something that can be turned into cash on short order.

Mr. SMOOT. I know the business of the world is not coming to a standstill immediately and require every note to be paid at once. If that were true no bank in existence could pay the demands made upon it.

Mr. PAGE. But you are injecting into the system, a system designed for national banks alone, banks that have no expectation of standing upon a par with national banks in regard to the liquidity of their assets.

Mr. SMITH of Georgia. As to these particular notes, they will stand upon the same basis or else they will not get them. If the banks are of the class to which the Senator refers they will not get any notes.

Mr. SMOOT. I wish to say to the Senator from Georgia, so far as the State banks in the West are concerned, if they were called upon to liquidate they could liquidate just as quickly and just as successfully as any national bank that is organized in the West.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. SMITH of Georgia. I yield to the Senator from Ohio.

Mr. POMERENE. Can the Senator give us an estimate of the amount of extra currency the State of Georgia might take out in the event that this amendment were adopted?

Mr. SMITH of Georgia. I believe it was estimated that the national banks could increase their currency $15,000,000.

Mr. POMERENE. No; they can increase it more than that.

Mr. SMITH of Georgia. In the State of Georgia?

Mr. POMERENE. In the State of Georgia. You have 115 banks. The capital stock of those banks is $15,048,500, and they have a surplus amounting to $9,454,832.58. Assuming, of course, that all these banks had the necessary surplus of 20 per cent so that they could issue 125 per cent of their capital and surplus, the national banks now could take out currency under the Aldrich-Vreeland Act to the amount of $30,629,469.

Mr. SMITH of Georgia. Less that already issued.

Mr. POMERENE. Less that already issued.

Mr. SMITH of Georgia. I understand already there is about $14,000,000 or $15,000,000 of currency taken out.

Mr. POMERENE. I do not have before me the amount which the Georgia banks have already taken out.

Mr. SMITH of Georgia. I believe most of the Georgia banks have their regular currency of 40 per cent.

Mr. POMERENE. Assuming that these banks would avail themselves of their privilege, does not the Senator think

$15,000,000 or $20,000,000 would pretty well take care of the present needs of Georgia?

Mr. SMITH of Georgia. I do not. I believe that quite a number of them would prefer that the State banks should come into the association and take it direct. I believe probably the total issue to Georgia would go as high as $25,000,000 or $30,000,000. I think that is a fair estimate. It is the only feasible way that I see of practically carrying the benefit of our emergency currency to the people in our section, where it is so much needed. That it will be absolutely safe I have no doubt. I know it will be safe.

Mr. POMERENE. I am just as anxious as the Senator can be to aid in every way possible, but I am not willing to aid any one locality, whether it is in Ohio or Georgia, in a way that might indicate serious jeopardy to our financial system. That must be preserved above everything else, in my judgment. I doubt the wisdom of extending this privilege now without some additional safeguards to the smaller State banks particularly.

Mr. SMITH of Georgia. The safeguards are thrown around it. The rules and regulations and the power of limitation of the Treasury Department guard it. I can not express myself too strongly in advocacy of this amendment, but I will not detain the Senate further.

Mr. VARDAMAN. Mr. President, I want to supplement what the Senator from Georgia [Mr. SMITH] has just said by stating that in Mississippi there are 326 State banks and only 32 national banks. Unless an amendment of the present law of this character shall be enacted by Congress it leaves the people of my State in a very deplorable condition. With the privilege of issuing currency which is afforded by this law it will enable the banks to carry Mississippi's surplus crop of cotton and greatly reduce the loss which threatens the farmers of the cotton-growing section of the Republic. It is a measure designed to give immediate and substantial help to the class of people whose toil feed and clothe the world and whose energy furnish the substratum for the entire superstructure of commerce. Without it I see no way to prevent the cotton crop of the South being sold at a sacrifice.

Now, as to the argument that currency would be rendered cheap by inflation, I want to say the terms of this proposed law provide that not one dollar of currency shall be issued without the approval of the Secretary of the Treasury; not a single bank can become a member of the association without the approval of the Secretary of the Treasury. The directors of the currency association have to pass upon it, and every possible safeguard, it occurs to me, is thrown around the issue so as to make it safe and secure. The demand is urgent and the situation is unusual.

I have no fear whatever of an inflation; I have no fear that any money or circulating medium is going to be issued but that which has behind it safe, sound, and reliable security. I hope that Senators may see the necessity for prompt action and that the amendment offered by the Senator from Georgia [Mr. SMITH] may be adopted.

Mr. REED. Mr. President, I desire to present a unanimous-consent agreement. It has, however, been suggested that we might possibly vote upon the pending amendment this evening. I do not think the amendment is in proper form, even if the principle were to be conceded. I do not think any bank ought to have the benefit of the Federal reserve system, which relates only to national banks and which was created for the national banking system, unless it shall signify its willingness to become a member of the system and unless it is specifically provided that the Secretary of the Treasury shall have the power to examine any bank before issuing the currency.

If the principle contended for by the Senator were to be conceded at all there should be a provision that the State banks and trust companies must signify their intention to become members of the Federal reserve system, because, first, this is a Federal act the benefit of which they desire. The credit of the Federal Government is, in the last analysis, involved, and no bank that is not willing to become a member of the Federal reserve system which is being created ought to have the benefit of the Aldrich-Vreeland Act, which is merely the stepping-stone which we intend to employ to pass from present conditions over to the Federal reserve system.

In the second place, there should be a specific provision authorizing the Secretary of the Treasury to cause an examination to be made of any of these banks, a power which he does not at all possess at the present time.

In the third place, if the money goes directly to any one of the State banks without passing through a currency association there should be a requirement of additional security, because there is no double liability on the part of a State bank.

With those three defects cured, it seems to me no very great harm could come, unless it is found in this fact, which I think has been overlooked in the debate: The Aldrich-Vreeland Act, it has been said, will not permit banks to become members of currency associations until and unless the Secretary of the Treasury has approved the currency association membership. If that were universally true, if it were necessary to issue all of this money through a currency association, the situation would not be especially dangerous; but I do not think that is the case. I think that after a currency association has been formed a bank desiring to become a member of the association must obtain the permission of the Secretary of the Treasury, but that in the primary organization of an association such permission is not required.

Mr. SMOOT. Mr. President——

Mr. REED. I desire to read the law upon that question.

Mr. SMOOT. I will wait until the Senator reads the law.

Mr. REED. That perhaps may settle it. I have read it hastily, and I may be in error; but let us settle it just as we should, according to the facts. The act provides:

> That national banking associations, each having an unimpaired capital and a surplus of not less than 20 per cent, not less than 10 in number, having an aggregate capital and surplus of at least $5,000,000, may form voluntary associations to be designated as national currency associations. The banks uniting to form such association shall, by their presidents or vice presidents, acting under authority from the board of directors, make and file with the Secretary of the Treasury a certificate setting forth the names of the banks composing the association, the principal place of business of the association, and the name of the association, which name shall be subject to the approval of the Secretary of the Treasury—

Which name shall be subject to the approval of the Secretary of the Treasury.

> Upon the filing of such certificate the associated banks therein named shall become a body corporate, and by the name so designated and approved may sue and be sued and exercise the powers of a body corporate for the purposes hereinafter mentioned: *Provided*, That not more than one such national currency association shall be formed in any city: *Provided further*, That the several members of such national currency association shall be taken, as nearly as conveniently may be, from a territory composed of a State or part of a State, or contiguous parts of one or more States: *And provided further*, That any national bank in such city or territory, having the qualifications herein prescribed for membership in such national currency association, shall, upon its application to and upon the approval of the Secretary of the Treasury, be admitted to membership in a national currency association for that city or territory, and upon such admission shall be deemed and held a part of the body corporate.

In the original formation the Secretary of the Treasury has nothing whatever to say, except as to the name. Any 10 banks possessing an aggregate capital and surplus of $5,000,000 can get together and organize, and all the Secretary of the Treasury has anything to say about it is that he can approve or disapprove the name. After they are organized, if another bank wants to become a member, it does not become a member by a vote of the banks, but it becomes a member by the permission and authority of the Secretary of the Treasury. So that if there was one of these associations now existing in the city of Atlanta, Ga., and there were 20 banks belonging to it, and a new bank wanted to join, it would have to apply to the Secretary of the Treasury; but if this amendment were adopted and 20 country banks wanted to get together and form an association, and they had an aggregate capital of $5,000,000 and had the other qualifications prescribed in the law, they could form that association, and the Secretary of the Treasury could not stop them, provided they did not invade the territory of a currency association already formed.

Mr. SMITH of Georgia. Could that be accomplished without the approval of the Secretary of the Treasury?

Mr. REED. Why, certainly; I think so.

Mr. SMOOT. Allow me to read further from the law.

Mr. SMITH of Georgia. In my own State I know it could not be accomplished.

Mr. SMOOT. Will the Senator allow me to interrupt him at this point?

Mr. REED. Yes.

Mr. SMOOT. If the Senator would continue the reading he would find this:

> The affairs of the association shall be managed by a board consisting of one representative from each bank. By-laws for the government of the association shall be made by the board, subject to the approval of the Secretary of the Treasury.

So that no currency association can be formed and do business with the Secretary of the Treasury—and it would have to do business through him—until its by-laws had not only been submitted to but had been approved by the Secretary of the Treasury.

Mr. REED. Does the Senator seriously claim that the right to approve a by-law adopted by an association gives the right

to pass upon the credit and stability of the units composing that association? Surely he does not contend that.

Mr. SMOOT. I take the position that the power is in the hands of the Secretary of the Treasury, as to whether there shall be created anywhere in the United States a currency association. If an association is not created, of course no application can be made for emergency currency. If an association were attempted to be created without the approval of the Secretary of the Treasury, it would have nothing whatever to do in any way with the Treasury Department, but would be null and void, so far as the provisions of the law are concerned, and so far as the ability to secure emergency currency is concerned.

Mr. VARDAMAN. Mr. President, I should like to ask the Senator from Missouri if he thinks that a currency association could issue any money without the approval of the Secretary of the Treasury?

Mr. REED. Oh, no. The truth about the matter is that the entire right to issue money under the original law and under all the amendments, if I correctly understand them, in the last analysis is dependent upon the approval of the Secretary of the Treasury.

Mr. VARDAMAN. Does not that imply that he has the right, then, to investigate the standing of the banks which form the currency association?

Mr. REED. It implies the right of the Secretary of the Treasury to accept or reject, but that does not carry with it the right to enter the doors of the bank, to go to its books, to count its cash, and do all the other things necessary. My own present feeling about this matter is that if the amendments which I have suggested were added to the amendment of the Senator from Georgia it might not be objectionable. I do not want absolutely to commit myself to it; but with the general thought that is in the mind of the Senator from Georgia I am in most hearty sympathy. With the method he proposes to work it out I am not entirely satisfied.

Mr. VARDAMAN. What are the amendments which the Senator has proposed to the amendment of the Senator from Georgia?

Mr. REED. That the right should be limited to those banks that agree to join the Federal system; that there should be the specific right reserved to the Secretary of the Treasury to examine the banks——

Mr. VARDAMAN. I think there is no objection to that.

Mr. REED. I do not think it ought to go beyond the banks that will come into the system.

Mr. VARDAMAN. Mr. President, I should like to suggest to the Senator from Missouri that the laws which have been passed and which it is proposed to pass are not for the benefit of the banks, but for the good of the people. We are not interested now in enlarging the Federal reserve system. If the State banks, after they have had this experience, should prefer to go back to the State law and live under that law, it would not be detrimental to the Federal reserve system. I do not see, if it were to the interests of the people that State banks should remain under the State laws, why anyone should insist upon their being members of the Federal reserve association.

Mr. REED. To explain that would involve the statement of many reasons; but I insist that since we have adopted the Federal reserve system—which means that the Government of the United States is practically back of the banking system of this country—therefore all banks receiving the benefit of it ought to be willing to come in and become a part of it.

Mr. SHAFROTH. Not only that, Mr. President, but I suggest that the State banks have certain privileges over the national banks, and if we are going to extend the Federal system to the State banks without any responsibilities or liabilities upon their part such as are imposed upon the national banks, the national banks will desert the Federal system and seek State charters. That is what they will do, and therefore we will have no Federal system.

Mr. REED. Mr. President, I desire to propose a unanimous-consent agreement, but I wish to make a preliminary statement. It was expected that this short bill when it was introduced would be enacted into law and be put into effect at once, and that its benefits to the country would be realized at once. It has been here nearly a week, and we have been discussing it now about three days; I think that we have discussed it until everybody understands it, and I think we ought to dispose of the amendments as they come along with but short debate. I do not believe it is necessary to have great, long discussions on a proposition that is so simple as this and in so small a compass, and, while I may be taking a wrong view, I wish to suggest to the Senate the following:

It is agreed by unanimous consent that not later than 2 o'clock——

Mr. SMOOT. Mr. President, I will say to the Senator that at this time I should not like to agree to any request for unanimous consent affecting the pending bill, and if the Senator were to submit the request it would only take the time of the Senate, and I ask him not to present the proposed agreement at this time.

Mr. REED. Very well.

Mr. SMOOT. Mr. President, this may be a little bill, as stated by the Senator from Missouri, but it is only little so far as the length of it is concerned. The more it is studied the more far-reaching its provisions appear to be.

I have made a statement here several times in debate which I wish to correct. I have noticed also that it has been made by many other Senators. In order that the RECORD may be right I wish at this time to make a further statement in relation to the amount of currency that could be issued under the Vreeland-Aldrich Act as amended. It has been generally stated that the amount would be a billion dollars. Mr. President, I have made that statement offhand time and again during this discussion; but it is not correct, and I think the Senate ought to know just about what amount can be issued under the amendments that have been already adopted to the Aldrich-Vreeland Act.

The capital stock of the national banks in the country, according to the last report, was $1,058,192,335. The surplus of the national banks amounts to $723,348,266.56, or a total of capital and surplus of the national banks of $1,781,530,601.

The Senate has already adopted an amendment that they can issue of this currency an amount equal to 125 per cent of the capital and surplus of the national banks of the United States if they conform to the provisions of the law as to capital and surplus.

Mr. SIMMONS. Mr. President, does not the Senator lose sight of the other provision—"less the amount of circulation already issued"?

Mr. SMOOT. If the Senator will wait, I will cover that point.

In looking up the figures we find that there are a number of national banks that have not the required capital, and therefore are not entitled to issue emergency currency. We also find that there are a number of national banks that have not yet the required 20 per cent surplus, and unless they have surplus funds of 20 per cent they are not entitled to issue emergency currency. So, taking those two classes of banks out of the national banks' capital and surplus, as stated by me, there would be, under the provisions of the present law, if all of the national banks took advantage of the law, an issue of an amount equal to $1,287,866,000.

Mr. GALLINGER. Mr. President, has the Senator made any calculation as to the amount that might be issued under the proposed amendment provided all the State banks took advantage of it?

Mr. SMOOT. Of course, the amount of the capital and surplus of the State banks of the country is at least three times the amount of the capital and surplus of the national banks, and therefore their issue could be three times as great.

I will continue now and say this: On August 19, when these figures of capital and surplus were reported by the Treasury Department, there had been issued up to that date emergency currency to the amount of $154,085,000. That is to say, on August 19 there still could have been issued by the national banks, if they had the security and made application, $1,441,951,000.

I felt, Mr. President, on account of the statements I have made in the discussion upon several occasions, that I ought to put the correct figures in the RECORD, and not, as we have been doing, state offhand what they were.

Mr. President, I do not want the Senator or the Senate to take my word in this matter. I will take the statement directly from the Treasury Department. This is what the Treasury Department says; I will read it, so that the Senate can see that the figures are exactly as I stated they were:

The amount of additional currency issued or directed to be issued under the provisions of the Aldrich-Vreeland Act, as amended by the Federal reserve act and the act of August 4, 1914, from August 3, 1914, to August 19, 1914 (no currency had been issued under this act prior to August 3), was $154,085,000, leaving—

Now, note what the department says—

leaving $1,287,866,000 still issuable in the discretion of the Secretary of the Treasury.

Then in this letter the Secretary goes on and tells to what States the emergency currency has been issued and what the applications are for additional currency.

Mr. President, I sympathize greatly with the position taken by the Senator from Georgia [Mr. SMITH]. The object the Senator has is to reach the small farmer with a few bales of cotton who desires to make a loan from his local bank. If his

State is the same as my State, there are three times as many State banks in it as there are national banks, and the State banks are generally located in the sparsely settled districts of the State. The deposits of these banks are not large. Their power to loan is limited.

If the regular channels of trade were open and the buyers were there purchasing the cotton by the bale and paying for it as usual, these little banks would have more money than they would know what to do with at this time of the year. That is the case all over the United States immediately after the sale of the farmers' annual crops. To meet the present emergency is the object of the amendment of the Senator from Georgia.

Mr. President, I recognize the fact that if that amendment were adopted I could point to the fact, if I desired to oppose it, that it would inflate the currency, and if every State bank should take advantage of it the amount of the inflation would be $3,000,000,000. But are they going to do it? In my opinion they are not. Again, it is only temporary. We refused this morning to reduce the rate of interest for the first three months from 3 per cent to 2 per cent. I wish now, Mr. President, that the Senate would increase the rate of interest from one-half of 1 per cent per month to 1 per cent per month. That would drive the emergency currency out of circulation, which we all admit ought to be done as soon as the emergency ceases to exist.

If it were not for the conditions as they exist to-day, I may say the suffering that many of the farmers of this country are passing through and the utter impossibility of realizing upon what they have produced, there would be no justification for this amendment.

For the reasons stated by me, however, I favor it, with a clear knowledge and a distinct understanding that it is against the best financial thought of the country. If it were standing upon its own merits, at a time when conditions were normal in this country and in all the world, I would no more think of voting for it than I would put my arm in the fire.

I favor it simply to relieve the situation by saying to the State banks of this country: Under this emergency you shall stand upon the same footing and the same basis as the national banks. If your security is just as good, if you comply with the law, if your examination by the Treasury Department reveals the fact that you are as sound as the national banks which form the currency association to which application is made, and if found to meet these conditions the State bank shall have a right to issue emergency currency on the same basis as the national banks.

Mr. SMITH of Michigan. Mr. President, if the Senator will permit me, I do not think State banks generally will avail themselves of this privilege——

Mr. SMOOT. I am quite sure they would not.

Mr. SMITH of Michigan. Even if you should make a condition precedent that they join the Federal reserve system. Some of the most prosperous banks in the country are State banks. While the inspection is in every way as thorough as national banks, and the State laws equally exacting, I am sorry that the administration feels that it is necessary to liberalize the emergency currency law to meet present exigencies which are in no way related to this subject, but, as we must submit, let the changes be as few and as wise as possible.

Mr. SMOOT. Yes; and I will say that the inspection in my own State is just as rigid as the inspection by the Government of national banks. In fact, I think our State bank commission is a little more particular than the Treasury Department in the examinations that are made.

Mr. SMITH of Georgia. I think the examination in Georgia of the State banks is more careful.

Mr. SMOOT. The reports the State bank examiner make are more in detail than the reports of the Government. They not only make a report covering all of the requirements of the Government report, but they have quite a number of additional requirements that the Government does not have.

I wish to say, as I started to say just before I was interrupted, that if the Aldrich-Vreeland Act is extended at any time between now and July 1, 1915, the date of its expiration, or if it is attempted to be extended, I want it distinctly understood now that if I am in the Senate of the United States this amendment will not be included in the extension if I can prevent it. In order that there may be no mistake about it, no mistake about my position that I consider this an emergency matter pure and simple, I wish to make the statement now, so that my vote may be understood when I cast it against the extension of the act with this amendment in it.

I will ask the Senator from Missouri if he intends to continue further to-night the consideration of the bill?

Mr. REED. I intend to move to take a recess just as soon as I can get the floor.

Mr. SMOOT. I will yield the floor now for that purpose.

INTERNATIONAL CONFERENCE ON WORLD'S PRICE OF STAPLES.

Mr. FLETCHER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House joint resolution 311. It is Order of Business 678. The joint resolution was taken up on yesterday, but the Senator from Washington [Mr. JONES] objected at that time. I understand he does not wish to press the objection at this time.

Mr. JONES. I desire to say with reference to the joint resolution that I shall make no objection to its passage. I do not understand that it obligates the United States in any way to carry out any convention that may be arranged pursuant to it, but we will be entirely free to consider it on its merits. So I shall make no objection to the passage of the joint resolution.

The VICE PRESIDENT. Is there any objection to the present consideration of the joint resolution?

Mr. GALLINGER. Mr. President, I shall not object; but what is going on now emphasizes the fact that we might better have a morning hour rather than have a recess and then violate the rules of the Senate by admitting morning business.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which is as follows:

Resolved, etc., That in accordance with the authority for letter (f) of article 9 of the treaty establishing the institute, which provides that it shall "submit to the approval of the Governments, if there be need, measures for the protection of the common interests of farmers," the American delegate to the International Institute of Agriculture is hereby instructed to present (during the 1914 fall sessions) to the permanent committee the following resolutions, to the end that they may be submitted for action at the general assembly in 1915, so as to permit the proposed conference to be held in Rome during the fortnight preceding the session of the general assembly of the institute in 1917:

RESOLUTIONS.

The general assembly instructs the International Institute of Agriculture to invite the adhering Governments to participate in an international conference on the subject of steadying the world's price of the staples.

This conference shall consist of members appointed by each of the Governments adhering to the institute, and is to consider the advisability of formulating a convention for the establishment of a permanent international commerce commission on merchant marine and on ocean freight rates with consultative, deliberative, and advisory powers.

Said conference to be held in Rome during the fortnight preceding the session of the general assembly of the institute in 1917.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SHAFROTH. Mr. President, I hope the Senator from Georgia [Mr. SMITH] will have his amendment printed, so that we can all have copies of it.

Mr. SMITH of Georgia. I have sent it to the printer.

Mr. JONES. Mr. President, I will ask the Senator from Indiana whether this practice of having recesses is going to be kept up until December?

Mr. KERN. I am not authorized to speak for the Senate. Speaking for myself, my opinion is that it will not be. As I stated the other day, there will be an opportunity for a morning hour.

Mr. JONES. I hope that situation will come about before very long.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15613) to create a Federal trade commission, to define its powers and duties, and for other purposes.

The message also announced that the House had passed a joint resolution (H. J. Res. 339) to correct an error in H. R. 12914, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the Vice President:

S. 1369. An act for the relief of the Snare & Triest Co.;

S. 4182. An act to authorize the installation of mail chutes in the public building at Cleveland, Ohio, and to appropriate money therefor;

H. J. Res. 334. Joint resolution to amend an act entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved July 21, 1914; and

H. J. Res. 337. Joint resolution to provide for representation of foreign Governments growing out of existing hostilities in Europe and elsewhere, and for other purposes.

HOUSE JOINT RESOLUTION REFERRED.

H. J. Res. 339. Joint resolution to correct an error in H. R. 12914 was read twice by its title and referred to the Committee on Pensions.

WILLIAM B. CUSHING CAMP.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the joint resolution (S. J. Res. 121) authorizing the Secretary of War to furnish one United States garrison flag to William B. Cushing Camp, No. 30, Sons of Veterans, which was, in line 4, after "to" where it occurs the second time, to insert "the Commissioners of the District of Columbia for the use of."

Mr. KENYON. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

WATER SUPPLY OF SALT LAKE CITY, UTAH.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 4741) for the protection of the water supply of the city of Salt Lake City, Utah, which were, on page 3, line 22, to strike out "at the expense of and," and on page 3, line 23, after "with," to insert "and at the exclusive expense of."

Mr. SMOOT. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

RECESS.

Mr. KERN. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 6 o'clock p. m., Thursday, September 10, 1914) the Senate took a recess until to-morrow, Friday, September 11, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *September 10, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Once more, Almighty God, are we permitted under Thy providence to lift up our hearts in gratitude to Thee for life and its gracious privileges, especially for the intellectual, moral, and spiritual endowments with which Thou hast blessed us; for the patriotism which gave us our Republic, and which through all the vicissitudes of the past has preserved it and made it the cradle of liberty for all the world. Help us more and more to appreciate the sacredness of American citizenship, that we may rise above all selfish considerations to supreme loyalty and devotion to our flag and all that it represents. In the spirit of our Lord and Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 4182. An act to authorize the installation of mail chutes in the public building at Cleveland, Ohio, and to appropriate money therefor.

BRIDGES, WISCONSIN AND MINNESOTA.

Mr. MILLER. Mr. Speaker, I ask unanimous consent to reconsider the vote by which the bill (H. R. 17762) to amend an act approved February 20, 1908, entitled "An act to authorize the Interstate Transfer Railway Co. to construct a bridge across the St. Louis River between the States of Wisconsin and Minnesota," and the bill (H. R. 15727) authorizing the county of St. Louis to construct a bridge across the St. Louis River between Minnesota and Wisconsin were passed last Tuesday, and that they be restored to the Unanimous Consent Calendar.

Mr. ADAMSON rose.

The SPEAKER. What are the numbers of the bills?

Mr. MILLER. H. R. 17762 and H. R. 15727.

Mr. ADAMSON. Mr. Speaker, reserving the right to object, I wish to say that those two bills were passed under a misapprehension on Tuesday and have gone to the Senate. I had risen for the purpose of asking unanimous consent that they be recalled, and that the Senate be requested to return them to the House, which I think would have to be done before they can be reconsidered.

Mr. MILLER. If the gentleman from Georgia will permit me, the enrolling clerk retained these two bills. They are not in the possession of the Senate, so that they can not be returned.

Mr. ADAMSON. I was not aware of that. I have no objection to the gentleman's request, Mr. Speaker.

Mr. MILLER. There was an agreement that they should not be considered at this time.

The SPEAKER. The gentleman from Minnesota [Mr. MILLER] asks unanimous consent that all the proceedings by which the bills H. R. 17762 and H. R. 15727 were passed be vacated, and that they be restored to the Unanimous Consent Calendar.

Mr. THOMSON of Illinois. Reserving the right to object, Mr. Speaker, may I ask what these bills are?

Mr. MILLER. Two bridge bills, for bridges across the St. Louis River, in my city.

Mr. MANN. I think these bills should be restored to the Unanimous Consent Calendar.

Mr. MILLER. That was part of my request.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the bills will be restored to the Unanimous Consent Calendar.

FEDERAL TRADE COMMISSION.

Mr. ADAMSON. Mr. Speaker, I call up the conference report on the bill (H. R. 15613) to establish an interstate trade commission.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

H. R. 15613. An act to create an interstate trade commission, to define its powers, and for other purposes.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent that the statement accompanying the report be read in lieu of the report. Is there objection?

There was no objection.

Mr. ADAMSON. Part of the statement consists of copies of bills, and it is not necessary that the Clerk should read them.

Mr. MANN. He had better read the report. The report, I think, is shorter than the statement.

Mr. COVINGTON. Not excluding the original House bill and the Senate bill, which are incorporated in the statement and not in the report.

Mr. MANN. I do not think it is necessary to omit part of them.

Mr. COVINGTON. Mr. Speaker, if I may be permitted, I think I know what the gentleman from Illinois [Mr. MANN] really seeks to cover. I would supplement the unanimous-consent request of the gentleman from Georgia [Mr. ADAMSON] by asking that the report be read, including the statement, but that there be omitted from the statement the two original bills.

Mr. MANN. It is not necessary to read the statement under the rules if the report itself is read.

The SPEAKER. The Clerk will read the report, leaving out the printed bills.

Mr. MANN. Nothing is to be left out of the report.

Mr. ADAMSON. Mr. Speaker, I wish to modify my request and have the report read and not the statement.

The SPEAKER. The gentleman from Georgia asks unanimous consent that the report be read.

Mr. MADDEN. Mr. Speaker, this is a bill that affects all the business of the United States, and it ought to be considered fully. It is a bill that seeks to regulate every business in the United States, and I think there ought to be a quorum of the membership of the House present, so that all the elements of the business of the country will be represented on the floor while it is being enacted. I therefore suggest the absence of a quorum.

Mr. ADAMSON. I think the gentleman should have made that point before the prayer, so that the Members could have got that too. [Laughter.]

The SPEAKER. The gentleman from Illinois [Mr. MADDEN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and fifty-one gentlemen are present—not a quorum.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] moves a call of the House. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken	Finley	Kiess, Pa.	Prouty
Ansberry	Flood, Va.	Kindel	Ragsdale
Anthony	Floyd, Ark.	Kinkead, N. J.	Rainey
Austin	Gallagher	Knowland, J. R.	Rothermel
Barchfeld	George	Korbly	Sabath
Bartlett	Gerry	Kreider	Saunders
Beall, Tex.	Godwin, N. C.	L'Engle	Shreve
Bell, Ga.	Good	Levy	Slemp
Brodbeck	Gorman	Lewis, Md.	Smith, Md.
Brown, N. Y.	Graham, Ill.	Lewis, Pa.	Smith, Minn.
Browning	Graham, Pa.	Lindquist	Smith, N. Y.
Burke, Pa.	Greene, Vt.	Loft	Steenerson
Byrnes, S. C.	Griest	McClellan	Stout
Calder	Griffin	McGillicuddy	Stringer
Carew	Guernsey	Mahan	Sutherland
Carlin	Hamill	Maher	Switzer
Carr	Harris	Martin	Tavenner
Connolly, Iowa	Helm	Merritt	Taylor, N. Y.
Copley	Henry	Metz	Underhill
Crisp	Hensley	Morgan, La.	Vare
Curry	Hinds	Moss, W. Va.	Volstead
Doughton	Hoxworth	Murdock	Watkins
Eagle	Hughes, W. Va.	Nelson	Webb
Edmonds	Humphreys, Miss	O'Hair	Whaley
Elder	Jones	Palmer	Wilson, N. Y.
Estopinal	Kahn	Patten, N. Y.	Winslow
Faison	Kelley, Mich.	Peters	Woodruff
Fess	Kent	Powers	Woods

The SPEAKER. On this roll 319 Members have answered to their names—a quorum.

Mr. FITZGERALD. I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will unlock the doors.

FEDERAL TRADE COMMISSION.

Mr. ADAMSON. Mr. Speaker, I wish to withdraw the request for the reading of the statement and to allow the conference report to be read.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1142).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert:

"That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this act, the term of each to be designated by the President, but their successors shall be appoined for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. The commission shall choose a chairman from its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

"The commission shall have an official seal, which shall be judicially noticed.

"SEC. 2. That each commissioner shall receive a salary of $10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of $5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

"With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

"All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

"Until otherwise provided by law, the commission may rent suitable offices for its use.

"The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

"SEC. 3. That upon the organization of the commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the commission.

"All clerks and employees of said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission; and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year 1915, or from the departmental printing fund for the fiscal year 1915, shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this act.

"The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

"SEC. 4. That the words defined in this section shall have the following meaning when found in this act, to wit:

"'Commerce' means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"'Corporation' means any company or association incorporated or unincorporated, which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association, incorporated or unincorporated, without shares of capital or capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

"'Documentary evidence' means all documents, papers, and correspondence in existence at and after the passage of this act.

"'Acts to regulate commerce' means the act entitled 'An act to regulate commerce,' approved February 14, 1887, and all acts amendatory thereof and supplementary thereto.'

"'Antitrust acts' means the act entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890; also the sections 73 to 77, inclusive, of an act entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894; and also the act entitled 'An act to amend sections 73 and 76 of the act of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes,"' approved February 12, 1913.

"SEC. 5. That unfair methods of competition in commerce are hereby declared unlawful.

"The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the acts to regulate commerce, from using unfair methods of competition in commerce.

"Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least 30 days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person,

partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the commission, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

"If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may apply to the circuit court of appeals of the United States within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 240 of the Judicial Code.

"Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission as in the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive.

"The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission shall be exclusive.

"Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or judgment of the court to enforce the same shall in any wise relieve or absolve any person, partnership, or corporation from any liability under the antitrust acts.

"Complaints, orders, and other processes of the commission under this section may be served by anyone duly authorized by the commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

"SEC. 6. That the commission shall also have power—

"(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

"(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

"(c) Wherever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

"(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

"(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

"(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

"(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this act.

"(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

"SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such a decree as the nature of the case may in its judgment require.

"SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to

time such officials and employees to the commission as he may direct.

"SEC. 9. That for the purposes of this act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpœna the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpœnas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

"Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpœna the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

"Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this act or any order of the commission made in pursuance thereof.

"The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

"Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

"No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpœna of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpœna issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

"SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpœna or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

"Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for a term of not more than three years, or both such fine and imprisonment.

"If any corporation required by this act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for 30 days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

"Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

"SEC. 11. Nothing contained in this act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust acts or the acts to regulate commerce, nor shall anything contained in the act be construed to alter, modify, or repeal the said antitrust acts or the acts to regulate commerce or any part or parts thereof."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the said bill, and agree to the same.

W. C. ADAMSON,
THETUS W. SIMS,
J. HARRY COVINGTON,
F. C. STEVENS,
JOHN J. ESCH,
Managers on the part of the House.

FRANCIS G. NEWLANDS,
ATLEE POMERENE,
WILLARD SAULSBURY,
MOSES E. CLAPP,
ALBERT B. CUMMINS,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The House bill as it passed on June 5 last and went to the Senate was not considered for amendments in the Senate Committee on Interstate Commerce, but instead there was reported to the Senate an entirely new bill, which was substituted for the House bill, and which, with various amendments adopted in the Senate, passed that body on August 5 last.

The conferees have brought the original House and Senate bills into harmony by drafting a measure, within the limits of conference, the provisions of which embody the essential features of both bills. These two bills are for purposes of comparison with the conference bill here set forth:

HOUSE BILL.

An act to create an interstate trade commission, to define its powers and duties, and for other purposes.

Be it enacted, etc., That a commission is hereby created and established, to be known as the interstate trade commission (hereinafter referred to as the commission) which shall be composed of three commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of two, four, and six years, respectively, from the date of the taking effect of this act, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. The commission shall choose a chairman from its own membership. No commissioner shall engage in any other business, vocation, or employment.

Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of $10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of $5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such other officials, clerks, and employees as it may find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

Until otherwise provided by law the commission may rent suitable offices for its use.

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

SEC. 3. That upon the organization of the commission and election of its chairman all the existing powers, authority, and duties of the Bureau of Corporations and of the Commissioner of Corporations conferred upon them by the act entitled "An act to establish the Department of Commerce and Labor," approved February 14, 1903, and all amendments thereto, and also those conferred upon them by resolutions of the United States Senate passed on March 1, 1913, on May 27, 1913, and on June 18, 1913, shall be vested in the commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this act.

That the Bureau of Corporations and the offices of Commissioner of Corporations and Deputy Commissioner of Corporations are upon the organization of the commission and the election of its chairman, abolished, and their powers, authority, and duties shall be exercised by the commission free from the direction or control of the Secretary of Commerce.

The information obtained by the commission in the exercise of the powers, authority, and duties conferred upon it by this section may be made public, in the discretion of the commission.

SEC. 4. That the principal office of the commission shall be in the city of Washington, where its general sessions shall be held; but whenever the interest of the public may be promoted, or delay or expense prevented, the commission may hold special sessions in any part of the United States. The commission may, by one or more of its members, or by such officers as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 5. That, with the exception of the secretary and a clerk to each commissioner, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

SEC. 6. That the words defined in this section shall have the following meaning when found in this act, to wit:

"Commerce" means such commerce as Congress has the power to regulate under the Constitution.

"Corporation" means a body incorporated under law, and also joint-stock associations and all other associations having shares of capital or capital stock or organized to carry on business with a view to profit.

"Capital" means the stocks and bonds issued and the surplus owned by a corporation.

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also the sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

"Acts to regulate commerce" means the act entitled "An act to regulate commerce," approved February 14, 1887, and all amendments thereto.

"Documentary evidence" means all documents, papers, and correspondence in existence at and after the passage of this act.

SEC. 7. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 8. That the commission may from time to time make rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this act.

The commission may from time to time employ such special attorneys and experts as it may find necessary for the conduct of its work or for proper representation of the public interest in investigations made by it; and the expenses of such employment shall be paid out of the appropriation for the commission.

Any member of the commission may administer oaths and affirmations and sign subpœnas.

The commission may also order testimony to be taken by deposition in any proceeding or investigation pending under this act. Such depositions may be taken before any official authorized to take depositions by the acts to regulate commerce.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this act or any order of the commission made in pursuance thereof.

SEC. 9. That every corporation engaged in commerce, excepting corporations subject to the acts to regulate commerce, which, by itself or with one or more other corporations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has a capital of not less than $5,000,000, or, having a less capital, belongs to a class of corporations which the commission may designate, shall furnish to the commission annually such information, statements, and records of its organization, bondholders and stockholders, and financial condition, and also such information, statements, and records of its relation to other corporations and its business and practices while engaged in commerce as the commission shall require; and to enable it the better to carry out the purposes of this act the commission may prescribe as near as may be a uniform system of annual reports. The said annual reports shall contain all the required information and statistics for the period of 12 months ending with the fiscal year of each corporation's report, and they shall be made out under oath or otherwise, in the discretion of the commission, and filed with the commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission. The commission may also require such special reports as it may deem advisable.

If any corporation subject to this section of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the commission for making and filing the same, or shall fail to make and file any special report within the time fixed by the order of the commission, such corporation shall forfeit to the United States the sum of $100 for each and every day it shall continue in default in making or filing said annual or specified reports. Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of the acts to regulate commerce.

SEC. 10. That upon the direction of the President, the Attorney General, or either House of Congress the commission shall investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation. The report of the commission may include recommendations for readjustment of business in order that the corporation investigated may thereafter maintain its organization, management, and conduct of business in accordance with law. Reports made after investigation under this section may be made public in the discretion of the commission.

For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against.

SEC. 11. That when in the course of any investigation made under this act the commission shall obtain information concerning any unfair competition or practice in commerce not necessarily constituting a violation of law by the corporation investigated, it shall make report thereof to the President, to aid him in making recommendations to Congress for legislation in relation to the regulation of commerce, and the information so obtained and the report thereof shall be made public by the commission.

SEC. 12. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission to ascertain and report an appropriate form of decree therein; and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 13. That wherever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon its own initiative or upon the application of the Attorney General, to make investigation of the manner in which the decree has been or is being carried out. It shall transmit to the Attorney General a report embodying its findings as a result of any such investigation, and the report shall be made public in the discretion of the commission.

SEC. 14. That any person who shall willfully make any false entry or statement in any report required to be made under this act shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than $5,000, or to imprisonment for not more than three years, or both fine and imprisonment.

SEC. 15. That any officer or employee of the commission who shall make public any information obtained by the commission without its authority, or as directed by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 16. That for the purposes of this act, and in aid of its powers of investigation herein granted, the commission shall have and exercise the same powers conferred upon the Interstate Commerce Commission in the acts to regulate commerce to subpœna and compel the attendance and testimony of witnesses and the production of documentary evidence, and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said acts to regulate commerce and by the act in relation to testimony before the Interstate Commerce Commission, approved February 11, 1893, and the act defining immunity, approved June 30, 1906, shall apply to witnesses, testimony, and documentary evidence before the commission.

SEC. 17. That the commission shall on or before the 1st day of December in each year make a report, which shall be transmitted to Congress. This report shall contain such facts and statistics collected by the commission as may be considered of value in the determination of questions connected with the conduct of commerce by corporations, excepting corporations subject to the acts to regulate commerce, including an abstract of the annual and special reports of corporations made to the commission under section 9 of this act: *Provided*, That no trade secrets or private lists of customers shall be embraced in any such abstract. The report shall also include such recommendations as to additional legislation as the commiss'on may deem necessary. The commission may also from time to time publish such additional reports or bulletins of facts and statistics relating to corporations engaged in commerce as may be deemed useful and do not violate the provisions of this act.

SEC. 18. That nothing contained in this act shall be construed to prevent or interfere with the Attorney General in enforcing the provisions of the antitrust acts or the acts to regulate commerce.

SENATE BILL.

An act to create an interstate trade commission, to define its powers and duties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal trade commission, composed of five members, not more than three of whom shall be members of the same political party, and the said Federal trade commission is referred to hereinafter as "the commission."

The words defined in this section shall have the following meaning when found in this act, to wit:

"Commerce" means such commerce as Congress has the power to regulate under the Constitution.

The term "corporation" or "corporations" shall include joint-stock associations and all other associations having shares of capital or capital stock, organized to carry on business for profit.

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," of August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

SEC. 2. Upon the organization of the commission, the Bureau of Corporations, and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist, and the employees of said bureau shall become employees of the commission in such capacity as it may designate. The commission shall take over all the records, furniture, and equipment of said bureau. All work and proceedings pending before the bureau may be continued by the commission free from the direction or control of the Secretary of Commerce. All appropriations heretofore made for the support and maintenance of the bureau and its work are hereby authorized to be expended by the commission for said purposes.

Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commissioners shall be appointed by the President, by and with the advice and consent of the Senate. The terms of office of the commissioners shall be seven years each. The terms of those first appointed by the President shall date from the taking effect of this act, and shall be as follows:

One shall be appointed for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years; and after said commissioners shall have been so first appointed all appointments, except to fill vacancies, shall be for terms of seven years each. The commission shall elect one of its members chairman for such period as it may determine. The commission shall elect a secretary and may elect an assistant secretary. Said secretary and assistant secretary shall hold their offices or connection with the commission at the pleasure of the commission. Each commissioner shall receive a salary of $10,000 per annum. The secretary of the commission shall receive a salary of $5,000 per annum. The assistant secretary shall receive a salary of $4,000 per annum. In case of a vacancy in the office of any commissioner during his term an appointment shall be made by the President, by and with the advice and consent of the Senate, to fill such vacancy, for the unexpired term. The office of the commission shall be in the city of Washington, but the commission may at its pleasure meet and exercise all its powers at any other place, and may authorize one or more of its members to prosecute any investigation, and for the purposes thereof to exercise the powers herein given the commission.

The commission shall have such attorneys, accountants, experts, examiners, special agents, and other employees as may, from time to time, be appropriated for by Congress, and shall have authority to audit their bills and fix their compensation. With the exception of the secretary and assistant secretary and one clerk to each of the commissioners, and such attorneys and experts as may be employed, all employees of the commission shall be a part of the classified civil service. The commission shall also have the power to adopt a seal, which shall be judicially noticed, and to rent suitable rooms for the conduct of its work.

All the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other place than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the commission.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

SEC. 3. The commission shall have power among others—

(a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce, relating to or in any way affecting the commerce in which such corporation under inquiry is engaged.

(b) To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged, and to make copies of the same.

(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act, as the commission may designate, and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath, or otherwise in the discretion of the commission.

(d) To make public, in the discretion of the commission, any information obtained by it in the exercise of the powers, authority, and duties conferred upon it by this act, except so far as may be necessary to protect trade processes, names of customers, and such other matters as the commission may deem not to be of public importance, and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation.

(e) In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts if the court finds for the complainant it may, upon its own motion or the motion of any party to such suit, refer the matter of the form of the decree to be entered to the commission as a master in chancery; whereupon the commission shall proceed in that capacity upon such notice to the parties and upon such hearing as the court may prescribe, and shall as speedily as practicable make report with its findings to the court, which report and findings having been made and filed shall be subject to the judicial procedure established for the consideration and disposition of a master's report and findings in equity cases.

(f) Wherever a restraining order or an interlocutory or final decree has heretofore been entered or shall hereafter be entered against any defendant or defendants in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon the application of the Attorney General, to make investigation of the manner in which the order or decree has been or is being carried out, and as to whether the same has been or is being violated and what, if any, further order, decree, or relief is advisable. It shall transmit to the Attorney General a report embodying its findings as a result of any such investigation, with such recommendations for further action as it may deem advisable, and the report shall be made public in the discretion of the commission.

(g) If the commission believes from its inquiries and investigations, instituted upon its own initiative or at the suggestion of the President, the Attorney General, or either House of Congress that any corporation, individual, association, or partnership has violated any law of the United States regulating commerce, it shall report its findings and the evidence in relation thereto to the Attorney General with its recommendations.

For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documents or writings of any corporation being investigated or proceeded against.

(h) The commission is hereby directed to investigate, as expeditiously as may be, trade conditions in foreign countries where associations, combinations, or practices of buyers, dealers, or traders may injuriously affect the export trade of the United States, and to report to Congress thereon from time to time.

SEC. 4. The powers and jurisdiction herein conferred upon the commission shall extend over all trade associations, corporate combinations, and corporations as hereinbefore defined engaged in or affecting commerce, except banks and common carriers.

SEC. 5. That unfair competition in commerce is hereby declared unlawful.

The commission shall have authority to prevent such unfair competition in commerce in the manner following, to wit:

Whenever it shall have reason to believe that any person, partnership, or corporation is violating the provisions of this section, it shall issue and serve upon the defendant a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint.

Upon such hearing the commission shall make and file its findings, and if the commission shall find that the person, partnership, or corporation named in the complaint is practicing such unfair competition it shall thereupon enter its findings of record and issue and serve upon the offender an order requiring that within a reasonable time, to be stated in said order, that the offender shall cease and desist from such unfair competition. The commission may at any time set aside, in whole or in part, or modify its findings or order so entered or made. Any suit brought by any such person, partnership, or corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district of the residence of the person or of the district in which the principal office or place of business is located and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year of 1913, and for other purposes, relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall apply.

Persons, partnerships, or corporations filing or causing to be filed complaints before the commission shall have the right to appear and be made parties to the case and be represented before the courts by counsel, under such regulations as are now permitted in similar circumstances under the rules and practice of equity courts of the United States.

If within the time so fixed in the order of the commission the person, partnership, or corporation against which the order is made shall not cease and desist from such unfair competition, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience thereto according to the law and rules applicable to suits in equity. All the provisions of the law relating to appeals and advancement for speedy hearing in suits brought to suspend or set aside an order of the Interstate Commerce Commission shall apply in suits brought under this section: *Provided*, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts: *Provided further*, That neither the orders of the commission nor the judgment of the court to enforce the same shall in any wise relieve or absolve any person or corporation from any liability under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

SEC. 6. That if any corporation subject to this act shall fail to file any annual or special report, as provided in subdivision (b) of section 3 hereof, within the time fixed by the commission for filing the same, and such failure shall continue for 30 days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or

in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

SEC. 7. Any person who shall willfully destroy, alter, mutilate, or remove out of the jurisdiction of the United States or authorize, assist in, or be privy to the willful destruction, alteration, mutilation, or removal out of the jurisdiction of the United States of any book, letter, paper, or document containing an entry or memorandum relating to commerce, with the intent to prevent the production thereof, or who shall willfully make any false entry relating to commerce in any book of accounts or record of any trade association, corporate combination, or corporation, subject to the provisions of this act, or who shall willfully make or furnish to said commission or to its agent any false statement, return, or record, knowing the same to be false in any material particular, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Any employee of the commission who divulges any fact or information which may come to his knowledge during the course of his employment by the commission, except in so far as it has been made public by the commission, or as he may be directed by the commission or by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 8. The commission shall have and exercise the powers possessed by the Interstate Commerce Commission to subpœna and compel the attendance and testimony of witnesses and the production of evidence, and to administer oaths. All the powers, requirements, obligations, liabilities, and immunities imposed or conferred by the act to regulate commerce, as amended in relation to testimony before the Interstate Commerce Commission, shall apply to witnesses, testimony, and evidence before the commission.

Each corporation having a capital of $5,000,000, to determine which fact the amount of its capital stock, surplus, bonded indebtedness, and undivided profits shall be combined, subject to the provisions of this act shall, within 90 days after the taking effect of this act, designate in writing an agent in the city of Washington, D. C., upon whom service of all notices, orders, and processes issued by the commission may be made for and on behalf of said corporation, and file such designation in the office of the commission, which designation may from time to time be changed by like writing similarly filed; and thereupon service of all notices, orders, or processes issued by the commission may be made upon such corporation by leaving a copy thereof with such designated agent at his or its office in the city of Washington with like effect as if made personally upon such corporation, and in default of such designation of such agent service of any notice, order, or other process may be made by posting such notice, order, or process in a conspicuous place in the office of the commission.

All notices, orders, or other process to be served upon individuals or other corporations than those having such capital shall be duly served personally on such individuals and upon the president, chief executive officer, or a director of such other corporations, respectively, unless they shall have designated, as they are hereby authorized to do, an agent as aforesaid with power and authority to accept service of such notices, orders, or other process.

SEC. 9. The district courts of the United States, upon the application of the commission alleging a failure by any corporation, or by any of its officers or employees, or by any witness, to comply with any order of the commission for the furnishing of information, shall have jurisdiction to issue such writs, orders, or other process as may be necessary to enforce any order of the commission and to punish disobedience thereof.

SEC. 10. The several departments and bureaus of the Government, when directed by the President, shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any trade association, corporate combination, or corporation, subject to any of the provisions of this act.

SEC. 11. Nothing contained in this act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust acts or the acts to regulate commerce, nor shall anything contained in the act be construed to alter, modify, or repeal the said antitrust acts or the acts to regulate commerce or any part or parts thereof.

The amended bill as agreed to in conference changes the name of the proposed trade commission from "Interstate Trade Commission" to "Federal Trade Commission." This is desirable to prevent confusion of name with the Interstate Commerce Commission. Because of certain administrative work not contemplated by the House bill, the number of commissioners has been changed from three to five. In all other respects the organization of the commission is as provided in sections 1 and 2 of the House bill.

The Bureau of Corporations is abolished, as in the House bill, and its powers are conferred on the commission. Instead of transferring them by reference to the original act creating the bureau, as in section 3 of the House bill, they are explicitly set out in section 6, paragraph (a), of the bill as agreed to by the conferees. This has been done because the bill now gives to the commission certain powers which so continuously and directly concern the business interests of the country that it is desirable to have the law show on its face its exact extent and application.

The definitions respecting "commerce," etc., remain substantially as in section 4 of the House bill.

The provision of section 9, paragraph 1, of the House bill requiring annual reports from all corporations engaged in commerce having a capital of over $5,000,000 has been changed to meet the Senate provision leaving the classes of corporations to make such reports to the discretion of the commission. In view of the large number of corporations with a capital of over $5,000,000 which are not necessarily engaged in any commerce potential for combination or monopoly this seemed a desirable change.

The commission is required to make the investigations relating to alleged violations of the antitrust acts as provided in section 10 of the House bill, except that the expression "direction of the Attorney General" is eliminated. He is the head of an executive department and the direction of the President is deemed sufficient. The reports of such investigations do not include, at the discretion of the commission, recommendations for readjustments of business, so that the corporations investigated may operate lawfully, but a new subsection is added, section 6, paragraph (e), requiring the commission to make recommendations of this character on the application of the Attorney General.

The powers conferred upon the commission in sections 12 and 13 of the House bill to assist the Department of Justice, upon direction of the courts, in solving the difficult economic problems connected with trust dissolutions under the antitrust law, and upon the initiative of the commission itself to supervise the compliance with decrees of dissolutions are retained in the conference bill in section 6, paragraph (c), and in section 7.

The conference bill contains a provision, section 6, paragraph (h), authorizing the commission to make investigations respecting practices which may affect the foreign trade of the United States. This was in the Senate bill substantially as it now appears.

The publicity of the facts which ought to be the common property of the American business man provided for practically as in the House bill, and the administrative processes for conducting investigations, summoning witnesses, and punishing violations are substantially as in the House bill.

Section 5 declares unfair methods of competition to be unlawful and empowers the commission, after hearing, to order the discontinuance of the use of such methods.

It is now generally recognized that the only effective means of establishing and maintaining monopoly, where there is no control of a natural resource as of transportation, is the use of unfair competition. The most certain way to stop monopoly at the threshold is to prevent unfair competition. This can be best accomplished through the action of an administrative body of practical men thoroughly informed in regard to business, who will be able to apply the rule enacted by Congress to particular business situations, so as to eradicate evils with the least risk of interfering with legitimate business operations.

It is impossible to frame definitions which embrace all unfair practices. There is no limit to human inventiveness in this field. Even if all known unfair practices were specifically defined and prohibited, it would be at once necessary to begin over again. If Congress were to adopt the method of definition, it would undertake an endless task. It is also practically impossible to define unfair practices so that the definition will fit business of every sort in every part of this country. Whether competition is unfair or not generally depends upon the surrounding circumstances of the particular case. What is harmful under certain circumstances may be beneficial under different circumstances.

The orders of the commission will be enforceable only through the courts. In order to obtain the speediest settlement of disputed questions, it is provided that the commission shall apply for the enforcement of its orders directly to the circuit court of appeals. The findings of the commission as to the facts are to be conclusive. The court's function is restricted to passing on questions of law. The court will determine such questions on the record in the proceeding before the commission. No new evidence may be adduced on the hearing in court except upon good cause shown; and if the court permits the introduction of additional evidence, such evidence will be taken by the commission and then filed in court with its new or modified findings based thereon. The judgment of the court of appeals will be final, subject only to review by the Supreme Court upon writ of certiorari.

This section is entirely new to the House bill, but it appeared in a somewhat similar form in the Senate bill, and the managers on the part of the House believed it wise to accept the provision in the form in which it now appears.

W. C. ADAMSON,
THETUS W. SIMS,
J. HARRY COVINGTON,
F. C. STEVENS,
JOHN J. ESCH,
Managers on the part of the House.

Mr. ADAMSON. Mr. Speaker, while I do not wish to indulge in any argument on this conference report, there are other gentlemen who desire to make a few remarks; and I hope I may

be pardoned a slight digression in yielding to my colleague, the distinguished gentleman from Maryland [Mr. COVINGTON], the author of the bill. [Applause.] He has been a member of our committee a long time. He was the chairman of the subcommittee which drafted this bill, and he is largely responsible for the excellencies contained in it.

It is with deep regret that the committee contemplate his early retirement from the committee and the House, but with gratification they look forward to the still more distinguished career which he is to achieve on the bench as the chief justice of the Supreme Court of the District of Columbia. [Applause.] He has been a splendid member of our committee. He has been diligent; he has been able; he has been courteous; and I have no doubt that all the Members of the House will share the regret of the committee in parting official company with him, and will with delight listen to the words of wisdom with which he will explain this conference report.

I yield to the gentleman from Maryland [Mr. COVINGTON] such part of 30 minutes as he wishes to use. [Applause.]

Mr. COVINGTON. Mr. Speaker, the conference report which has just been called up represents the final stage of legislation in that part of the President's trust program in which he recommended, in his message of January last, the creation of an interstate trade commission.

It will be recollected that the House bill passed on June 5 last and went immediately to the Senate. It was not considered for amendments in the Senate Committee on Interstate Commerce, but instead there was reported to the Senate an entirely new bill. This was substituted for the House bill by way of a single amendment, and this substituted bill, with various amendments thereto, was passed in the Senate on August 5 last. It immediately went to conference, and the managers on the part of the House have since that time been continuously laboring with the managers on the part of the Senate to bring the two bills into harmony by redrafting the provisions of the two measures, within the limits of conference, so as to embody the essential features of the original plan for the creation of an interstate trade commission as outlined in the House bill.

At the outset the conferees determined that it was wise to agree to the change of the name of the proposed trade commission from "interstate trade commission" to "Federal trade commission." This is practically a necessity in order to prevent confusion of name with the Interstate Commerce Commission. A great many of the printed reports and other documents now bear on the title-page the abbreviation "I. C. C." for Interstate Commerce Commission. To have a similar abbreviation "I. T. C." would make endless confusion. The managers on the part of the House, therefore, accepted the change of name to "Federal trade commission," as it appeared in the original Senate bill.

The number of commissioners has been increased from three to five. At the time the House bill was passed the commission did not have conferred upon it one very important administrative power which later appeared in the Senate bill, and which now is adopted in the conference report. This power is the one conferred upon the commission to deal with unfair methods of competition, which will be explained later on. It will make the work of the commission sufficiently heavy to require of necessity that there shall be five commissioners.

I am glad to be able to state to the House that in practically all of the other features of the House bill the conference report shows that there has been substantial and, in many instances, precise adherence to it. The Bureau of Corporations is abolished, as in the House bill, and its powers are conferred on the Federal trade commission. The House bill conferred these powers explicitly by reference to that part of the original act organizing the Department of Commerce and Labor which provided for the creation of the Bureau of Corporations.

With the conferring upon the commission of the power to deal with unfair competition, to which I have referred—a power which so continuously and directly concerns the business interests of the country—it is desirable to have the law show upon its face its exact extent and application, and the powers, duties, and authority of the Bureau of Corporations have accordingly been explicitly set out in section 6, paragraph (a), of the bill as agreed to by the conferees. This is, however, an express reaffirmation of the original House act. There had been an attempt in the Senate bill to limit the power of the commission to investigate within a much narrower scope than now covered by the Bureau of Corporations.

The definitions respecting commerce, corporations, documentary evidence, antitrust acts, and acts to regulate commerce remain substantially as in section 4 of the House bill.

The actual details of organization of the commission, as provided in the bill of the conferees, is precisely as provided in sections 1 and 2 of the House bill. The method of compensating the commissioners, the authorization of the selection of its employees, the provision safeguarding its force of employees within the classified civil service, the auditing of its accounts, and all other details follow the carefully worked out legislation as it originally passed this House.

The provision of section 9, paragraph 1, of the House bill, requiring annual reports from all corporations engaged in commerce having a capital of over $5,000,000, has been changed so as to leave the classes of corporations which shall be required to make such reports to the discretion of the commission. It is apprehended that with the power in the commission to deal with unfair methods of competition, the annual reports and special reports to be required from those corporations which it is desirable for the commission to have report at all will be quite comprehensive. It transpires that there are over 1,300 corporations, excepting banks and common carriers, in the United States engaged in the businesses defined as interstate commerce. A very large number of those corporations do not belong to classes which are ever likely to be cited to appear before the commission for violations of law. All information which may ever be wanted from them, in line with that rational and constitutional publicity which shall alike aid the public and industrial business, can be obtained from the occasional or special reports. The managers on the part of the House believe, therefore, that it was wise to yield in the matter of classification and not to require that all corporations of over five millions of capital shall arbitrarily be compelled to file an annual report with the Federal trade commission.

Mr. BORLAND. Would the gentleman be willing to be interrupted?

Mr. COVINGTON. Certainly.

Mr. BORLAND. The dropping out of that limit of $5,000,000 does not mean that all corporations, no matter how small, are going to be required to make reports?

Mr. COVINGTON. On the contrary, it was dropped for the purpose of limiting the number of corporations which will be required to make regular reports.

Mr. BORLAND. There have been some people who are very apprehensive that it would require all of these little business corporations to make a report. That is not the case?

Mr. COVINGTON. It is the belief of the conferees that the present language as construed by the commission will cause only a relatively small number of corporations to make the reports.

Mr. MADDEN. Will the gentleman yield?

Mr. COVINGTON. Certainly.

Mr. MADDEN. Does this give the commission power to require any corporation to make a report, whether the capital be small or great?

Mr. COVINGTON. Undoubtedly. The language of the section is such that, having regard for the ordinary good sense which the group of men composing the Federal trade commission will have, they possess the power to designate the corporations required to report.

Mr. MADDEN. There is no limit to the power of the commission to require any corporation to make a report?

Mr. COVINGTON. In the original House bill there was not, because it was necessary, from a legal viewpoint, that there should be left to the commission the power to classify corporations with less than $5,000,000 capital and to require them to make reports if necessary.

Mr. MADDEN. True, the House bill provided that a certain limit of capital would require the corporations to come under the provisions of the law, but it also gave the commission the power to go beneath the limit of capitalization of corporations.

Mr. COVINGTON. It did; and when the commission reads the two acts together, seeing what the House originally did and what the conference report finally does, there will be a clear legislative intent indicated to them, and even the courts have said that you may look to the proceedings of the legislative body to obtain the legislative intent. The commission will therefore see that it was the intention of Congress to limit the operation of the report section and not to broaden it beyond the original House bill.

Mr. MADDEN. Does the gentleman believe it is the conclusion of all of the conferees that the commission will not require reports to be made from corporations unless information comes to them to the effect that those corporations are violating the law?

Mr. COVINGTON. Not necessarily. They may belong to the classes of corporations which are peculiarly as a class engaged in business potential for monopoly or likely to be operating through unfair competition. The conferees all believe the present form of the section is less of a burden on honest corporate

business than would have been the requirements of the original section.

Mr. J. M. C. SMITH. Mr. Speaker, will the gentleman yield?

Mr. COVINGTON. Yes.

Mr. J. M. C. SMITH. Has the commission the same authority to compel a copartnership or an individual engaged in an unlawful combination or restraint of trade to make reports as it has of a corporation?

Mr. COVINGTON. It has not the same power to compel reports, because it could not constitutionally do that, I apprehend. It is only by virtue of the visitorial power of Congress over corporations enjoying certain franchise privileges but going beyond the confines of the State that the commission finds its power to compel them to make reports.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. COVINGTON. Yes.

Mr. STAFFORD. The gentleman just stated that it is the rule of the court in interpreting laws to look for the intent of Congress by referring to the reports upon bills. Is not that the rule only where the phraseology is ambiguous, and it does not apply where the language is clear and explicit, as it is in this case, to give power to a Federal commission to extend over all corporations whether large or small?

Mr. COVINGTON. Mr. Speaker, I did not mean to convey the idea that the court in construing an unambiguous section would take either the report on the bill or the legislative debates. What I meant to say to the gentleman from Illinois [Mr. MADDEN] was that the commission itself in trying to find the purpose of the change would see that purpose very clearly indicated by the course of legislative conduct in dealing with the section. That disclosed intent would impel the commission to restrict the scope of the annual report section rather than to broaden it.

Mr. STAFFORD. But there is nothing restrictive in the measure limiting their authority. If they want to exercise it they might exercise it over every corporation.

Mr. COVINGTON. Oh, certainly.

Mr. BATHRICK. Mr. Speaker, will the gentleman yield?

Mr. COVINGTON. Yes.

Mr. BATHRICK. I want to be clear upon this point. No firm or corporation is required to report except those which this commission designates?

Mr. COVINGTON. That is correct.

Mr. BATHRICK. Does the gentleman consider under this bill that the commission will have the power to require a report from a corporation doing business wholly within the State?

Mr. COVINGTON. Certainly not.

Mr. MADDEN. Mr. Speaker, will the gentleman yield again?

Mr. COVINGTON. Certainly.

Mr. MADDEN. In answer to a question that I asked the gentleman a short time ago, the gentleman from Maryland replied that the scope of the commission's authority would be confined to such corporations as were recognized to be violators of the law, or some such expression as that. I do not attempt to use his exact words. Do the conferees undertake to define what classes of corporations are law violators?

Mr. COVINGTON. I think the gentleman from Illinois [Mr. MADDEN] misunderstood me. I meant that the scope of the power in the section requiring reports was intended to be restricted rather than enlarged as the result of the final enactment of that section, and I did not mean to say that the commission's authority over the reports from corporations is to be restricted to those that may be engaged in violating the law.

Mr. MADDEN. I understood the gentleman to say that there was a well-defined class of corporations that were understood to be law violators.

Mr. COVINGTON. Oh, no; I did not say that at all. On the contrary, I think, with all due respect to a certain few people who imagine that most corporations are violators of the law, that the vast majority of them are law-abiding organizations, intending to conform their business practices to the honest methods that the law outlines or fair dealing itself dictates.

The commission is required to make the investigations relating to alleged violations of the antitrust acts as provided in section 10 of the House bill. The original Senate provision of a similar character authorized the commission to go further than to make a report on the facts to the Department of Justice. It provided for a report of the findings of the commission with respect to violations of the law. The purpose of the original House provision was to give some compulsory process whereby the Department of Justice, before bringing suit under the antitrust acts, can obtain all the information necessary to determine whether the law has been violated or not, and for the proper statement of the case of the Government in its bill of complaint if there has been a violation. On the other hand, everyone recognizes that it would be a mistake to divide the authority of enforcement of the antitrust acts between any other body and the Department of Justice. The Attorney General should be left in full control, as the chief law officer of the Government, of the disposition of cases arising under the Sherman law. He would not be thus left if there were embodied in the report of facts made by the trade commission with respect to any investigations conducted by it concerning violations of the Sherman law, findings, that is to say, conclusions of law, respecting violations. The House therefore insisted upon retaining its original language, which has been thought out after consultation with many lawyers actively concerned in the prosecution of trust cases for the Government. The expression "direction of the Attorney General" is eliminated from the section. He is in reality the head of an executive department, and the direction of the President is deemed sufficient. It is a certainty that the President will always direct the commission to make an investigation when his own Attorney General requests him so to do. And it adds something to that independence and dignity of the commission which is so desirable to have the law creating it free from any suggestion that it is so subordinate a body as to be liable to be directed to do any act by the head of a governmental department.

Mr. BUCHANAN of Illinois. Mr. Speaker, will the gentleman yield?

Mr. COVINGTON. I yield to the gentleman.

Mr. BUCHANAN of Illinois. Does this measure give the commission power to prevent corporations from circulating watered stock?

Mr. COVINGTON. No. That subject is dealt with in another one of the trust bills. I understand—in fact, I know—that the provisions relating to common ownership of stock and interlocking directorates is one of the provisions embodied in the Clayton antitrust bill, now pending in conference.

The powers conferred upon the commission in sections 12 and 13 of the House bill to assist the Department of Justice, upon direction of the courts, in solving the difficult economic problems connected with trust dissolutions under the antitrust law, and upon the initiative of the commission itself to supervise the compliance with decrees of dissolution, are retained in the conference bill in section 6, paragraph (c), and in section 7.

The House bill provided, in section 16, that the commission should have and exercise the same powers conferred upon the Interstate Commerce Commission to subpœna and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths. The Senate bill also contained as its section 8 exactly the same provision. The House managers believed, however, that in line with the policy which caused the recital in full of those powers formerly exercised by the Bureau of Corporations and hereafter to be exercised by the commission, it is both wise and proper that the powers of subpœna and other compulsory process for taking testimony and producing documentary evidence, and the power of enforcing the ordinary processes of the commission with respect thereto in the courts, ought to be set out in full. It is believed that the scope of the present act is such with respect to individuals and corporations engaged in interstate commerce that it ought to contain in its body all of its provisions in full, without having reference to any other existing act to find the extent or application of the law. The Senate accepted this suggestion, and the enactment of those powers by reference to the similar powers possessed by the Interstate Commerce Commission has been abandoned.

The conference bill contains a provision, section 6, paragraph (h), authorizing the commission to investigate from time to time trade conditions in and with foreign countries where the practices of manufacturers, merchants, or traders or other conditions may affect the foreign trade of the United States, and to report to Congress thereon with such recommendations as the commission deems advisable. This section was in the Senate bill substantially in the form in which it now appears. In view of the horrible war now devastating Europe and the nation-wide belief that there is an unusual opportunity for this country to secure and hold the vast export commerce carried on by European countries with South America, there can hardly be a doubt that careful inquiries by a great administrative body, possessed of the experts necessary to make valuable trade investigations, are desirable to secure information and suggest methods by which our industrial business concerns shall rapidly be enabled to expand their export trade until they have the bulk of the great South American commerce.

Mr. SHERLEY. Will the gentleman yield?

Mr. COVINGTON. Certainly.

Mr. SHERLEY. In the bill as it passed the House the definition of commerce was, in substance, that over which Congress has jurisdiction by virtue of the Constitution of the United States. In the bill as agreed to in conference the definition of commerce would seem to exclude commerce with any possessions of the United States that were not States or Territories or the District of Columbia.

Mr. COVINGTON. That is correct.

Mr. SHERLEY. In other words, it does not embrace commerce with the Philippines, with the Canal Zone, Porto Rico, Guam, and such places.

Mr. COVINGTON. It is not intended to cover that commerce.

Mr. SHERLEY. I notice one other matter in which the House may be interested, and that is exclusive jurisdiction is given to the circuit court of appeals on the application by the commission or the party affected in reviewing the action of the commission, and then there is a subsequent provision which gives to the district courts power to issue writs of mandamus to compel enforcement of the order of the commission. Those provisions seem to be in conflict.

Mr. COVINGTON. I think the conflict is more apparent than real, and, frankly, it was an oversight in the final draft. It is a fact that there is a slight conflict there. It is one, however, the court would have no difficulty in determining, because in the section which embodies the method of dealing with processes of the commission, process for subpœna, process of enforcing ordinary orders respecting reports, process for production of documents, process for the punishment of contumacious witnesses, and all the other ordinary machinery for the actual operation of the commission investigations and hearings, there is found that provision. It might very well be held to relate entirely to the proceedings under the section to which the gentleman refers. And the exclusive jurisdiction conferred upon the circuit court of appeals is expressly related to and found in the section which deals with unfair methods of competition in business. In addition thereto, as indicated—that section 9, to which the gentleman refers, was dealing entirely with methods and processes—it provides that the jurisdiction of the district courts of the United States shall be invoked only upon the application of the Attorney General of the United States, and only at the request of the commission. Assuming all the gentleman says, it would not become a conflict of jurisdiction until the application of the Attorney General to the district court after the request of the commission had been made. The commission would never use that method to enforce its unfair-competition orders.

Mr. SHERLEY. I grant the gentleman that the jurisdiction of the district court can only be appealed to by the Attorney General of the United States on request of the commission, but assuming that it was so invoked and a writ of mandamus was sought, in resisting the issuance of that writ would not the proceeding of necessity vest the district court with jurisdiction that in another place in the bill it is stated to be exclusively with the circuit courts of appeal?

Mr. COVINGTON. If such an unusual and unlikely situation as that should develop there would undoubtedly be a conflict of jurisdiction.

Mr. SHERLEY. In other words, there is a conflict which can be avoided by the commission not taking advantage of the provision as to mandamus writs in the district court?

Mr. COVINGTON. Certainly. And, moreover, the Attorney General himself can not take advantage of that unless the commission itself desires to invoke the order and make application to him; so it is a conflict that is apparent rather than one that raises a substantial difficulty. It is also easy to correct, if it is desirable.

Mr. SHERLEY. I understand.

Mr. COVINGTON. The House managers yielded to the Senate managers with respect to the section in the Senate bill dealing with unfair methods of competition. At the time the original House bill was passed I stated, in presenting the bill to the House:

> The commission has in no sense been empowered to make terms with monopoly or in no way to assume control of business. * * * There has been no attempt to deal with the question of maintenance of fixed prices. The commission has been given no power to pass orders in any way regulating production It has not been clothed with authority to make a declaration as to the innocuousness of any particular corporation or agreement, even if coupled with the right to revoke such order in future. All those problems are interwoven with the industrial business of the country in such a way as to be effectively legislated upon, if at all, only after the most exhaustive investigation by trained experts.

The acceptance of section 5 of the present bill, conferring upon the Federal trade commission the power to deal with unfair methods of competition, in no wise interferes with the declaration made by me respecting the way in which the powers of the commission ought to be circumscribed. There is not now found within the extent of the well-defined doctrine of the substantive law recognized by the courts as "unfair methods of competition" any attempt to make terms with monopoly or, through the instrumentality of the Federal trade commission, to regulate production or enforce by orders the maintenance of fixed prices. Neither is there lurking within the doctrine any authority to declare lawful or harmless for the future the general plan of organization or operation of any particular corporation engaged in commerce. In fact, "unfair methods of competition" is a subject simply avoided entirely at the time the House bill was passed, because in the division of jurisdiction between the House Committee on Interstate and Foreign Commerce and the House Committee on the Judiciary there was pending before the Committee on the Judiciary, and subsequently passed, a bill which, among its other provisions, contained a series of definitions against certain unfair methods of competition, and which provided arbitrarily for the punishment under all circumstances of the persons, partnerships, or corporations guilty of the practices defined and prohibited. It was only when the trade commission bill and the antitrust bill reached the Senate that it became a much-mooted and very open question what was the best and most effective way to deal with the various practices of unfair or destructive competition which, if permitted to go on unchecked and uncontrolled, become potential for restraint of trade or monopoly. When the trade commission bill came to the floor of the Senate that body, after more than a month of most informing debate, voted quite decisively for the insertion in the bill of the provision of law now embodied in section 5, and which reads:

> That unfair methods of competition in commerce are hereby declared unlawful.
>
> The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks and common carriers subject to the act to regulate commerce, from using unfair methods of competition in commerce.

There then followed in the section a method of procedure for the enforcement in the courts of the orders of the commission, similar to the procedure now in force with respect to the orders of the Interstate Commerce Commission.

The House managers gave a good deal of consideration to this section. It was recognized that it did not appear in any form in the House bill. It embraced within its broad and elastic scope all the specific practices against which there had been prohibitions in the Clayton bill. After careful consideration, however, it seemed the wise thing to accept the section.

It is now generally recognized that the only effective means of establishing and maintaining monopoly, where there is no control of a natural resource or of transportation, is by the use of unfair competition. The most certain way to stop monopoly at the threshold is to prevent unfair competition. This can be best accomplished through the action of an administrative body of practical men thoroughly informed in regard to business who will be able to apply the rule enacted by Congress to particular business situations so as to eradicate evils with the least risk of interfering with legitimate business operations.

It is impossible to frame definitions which embrace all unfair practices. There is no limit to human inventiveness in this field. Even if all known unfair practices were specifically defined and prohibited, it would be at once necessary to begin over again. If Congress were to adopt the method of definition it would undertake an endless task. It is also practically impossible to define unfair practices so that the definition will fit business of every sort in every part of this country. Whether competition is unfair or not generally depends upon the surrounding circumstances of the particular case. What is harmful under certain circumstances may be beneficial under different circumstances.

When the trade commission bill was first reported to the Senate containing section 5, which at that time provided that "unfair competition in commerce shall be unlawful," it is quite true that it was the contention of a number of able Senators that the expression "unfair competition" was so vague as applicable to industrial business in this country that a prohibition of it would be incapable of enforcement at law. Even a casual examination of the authorities, however, shows that view to have been unsound.

"Unjustly" is a word that is often used in defining or declaring a rule of conduct, and it has been applied a great many times. Among others I find the case of McGear *v.* Young (44 Southwestern Reporter, 194). If "unjustly" is certain, is "the fair" less certain?

Mr. HULINGS. Will the gentleman yield?

Mr. COVINGTON. Certainly.

Mr. HULINGS. I would like to ask if two or half a dozen gentlemen have a partnership and are engaged in what might

be termed unfair processes between the States and a half a dozen gentlemen who are incorporated in a corporation in some of the States are engaged in the same kind of business, would this act require the corporation to cease that kind of thing and permit the partnership to go on in the same business?

Mr. COVINGTON. No.

Mr. HULINGS. So it does cover a partnership?

Mr. COVINGTON. The section which deals with unfair methods of competition confers upon the commission certain administrative powers somewhat analogous to the Interstate Commerce Commission, extending to persons, partnerships, and corporations, and with respect to the great industrial activities in interstate commerce. It embraces within the scope of that section every kind of person, natural or artificial, who may be engaged in interstate commerce.

Mr. HULINGS. Where is it in the bill?

Mr. COVINGTON. It is in section 5.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. COVINGTON. I yield to the gentleman from Iowa.

Mr. GREEN of Iowa. As I understand the bill, the term "unfair competition" is nowhere defined therein, and it is left for the commission to determine in the first instance whether or not any particular act constitutes unfair competition. Am I correct?

Mr. COVINGTON. The gentleman is correct.

Mr. GREEN of Iowa. Then the commission will do, in the language of the bill, in accordance with their opinion.

Mr. COVINGTON. But the language of the bill does not say exactly that. It says that after a hearing and findings of fact the commission is of opinion.

Mr. GREEN of Iowa. I think the gentleman will find the language of the bill reads that way. I will read it.

Mr. COVINGTON. It does not say merely in accordance with their opinion. It says that if in their opinion, after the hearing, the person or corporation has violated the statute. A court also does that.

Mr. GREEN of Iowa. I accept the construction the gentleman has placed upon it, and then I will ask further if the determination of their opinion is based by any legal precedents on the subject?

Mr. COVINGTON. Surely; they are to determine. The gentleman's question is a very pertinent one. This is a new field in the law in this country with respect to interstate commerce. We are attempting to control and protect honest competition in this country, and unless a man has been a specialist in the law with respect to industrial business it is quite likely that he has not realized the extent to which there has been a growth of the substantive law with regard to what are known as "unfair methods of competition." I state quite candidly to the gentleman that at the time this measure was first mooted in the House I held to the opinion that "unfair competition" or "unfair methods of competition," as a phrase to be found in the law, was so probably vague as to be unenforceable. But after having given some months of study to the subject I am able to say that there is in existence to-day a surprisingly well-defined class of declarations by the courts in cases arising where suits for damages have been brought or where the injunctive processes of the courts have been sought to be invoked, stating unfair competition or unfair methods of competition as a legal definition. All the conferees were clear upon that.

As a matter of fact, a careful examination will show that when the Sherman Antitrust Act was passed in 1890, containing the expression that "contracts in restraint of trade are hereby declared to be unlawful," there was not one tithe of legal interpretation to tell the courts what contracts in restraint of trade are that there is to-day to tell the courts what "unfair methods of competition" means.

If the gentleman from Iowa [Mr. GREEN] will follow me, I think he will be satisfied of that fact.

The SPEAKER. The time of the gentleman from Maryland has expired.

Mr. ADAMSON. Mr. Speaker, does the gentleman from Maryland wish additional time? If so, how much additional time does the gentleman desire?

Mr. COVINGTON. I think 15 minutes more would be all that I may need.

Mr. ADAMSON. Very well.

The SPEAKER. The gentleman from Maryland is recognized for 15 minutes more.

Mr. COVINGTON. During the debate in the Senate there were called to the attention of that body by Senator CUMMINS, of Iowa, two instances of very broad use in law of words similar to "unfair," for the purpose of prescribing a rule of conduct—one in a statute and one in a decree. The first instance is found in the statutes of New York in the laws of 1910, chapter 374, article 11. It reads as follows:

> Every person operating a motor vehicle on a public highway of this State shall drive the same in a careful and prudent manner, and at a rate of speed so as not to endanger the property of another or the life or limb of any person: *Provided*, That a rate of speed of 30 miles an hour for a distance of one-fourth of a mile shall be presumptive evidence of driving at a rate of speed which is not careful and prudent.

Section 290 of the laws to which I have referred prescribes a penalty for a violation of the provision I have just read. It has been sustained in the courts of New York as fixing a rule sufficiently certain to guide those who might be affected by it. It was first passed upon in People *v.* Winston (155 Appellate Division, N. Y., 907). It was again passed upon in the court of appeals in Baker *v.* Close (204 N. Y., 92), and in the latter case the court said:

> Both pedestrians and drivers of motor vehicles are required to exercise that degree of prudence and care which the conditions demand. It is impossible—

Says the court—

> to formulate any more precise definition of these relative rights and duties.

If it is sufficient to say to the people who are to be affected by a law that they must drive a motor vehicle in a careful and prudent manner, it would seem to be sufficient to prescribe for those engaged in trade that they must not practice unfair competition, in view of the many applications those words have already had and the many instances in which they have been applied, both by courts and commissions, in the general literature of commerce.

Mr. GREEN of Iowa. I wish to go a little further with my question. I hope the gentleman will convince me by the authorities he has cited as he has convinced himself, but I am not yet convinced. To go further with my question, as I understand, the gentleman thinks this act does not declare any particular act to be wrongful which has not heretofore been included within the term "unfair competition" by the courts?

Mr. ADAMSON rose.

The SPEAKER. For what purpose does the gentleman from Georgia rise?

Mr. ADAMSON. I wish to say that it is especially desirable that the gentleman from Maryland [Mr. COVINGTON] shall have full opportunity to answer questions and to explain this bill, and yet there are three or four other gentlemen who have asked for a little time. I therefore ask unanimous consent that my time be extended not to exceed an additional hour.

The SPEAKER. The gentleman from Georgia asks unanimous consent that his time be extended not to exceed an hour.

Mr. COVINGTON. I shall not exceed half that time.

The SPEAKER. Is there objection?

There was no objection.

Mr. COVINGTON. I want to call the attention of the gentleman from Iowa [Mr. GREEN] to the statute that has recently been passed by the State of New York and which I just referred to, and to ask him whether he thinks it places upon the courts a lighter burden or a greater burden than the expression "unfair competition"? That statute respecting automobiles in the State of New York, as I said a few moments ago, has been construed to be enforceable and punishments under it have been sustained, and it says—and this is about all it says—that "every person operating a motor vehicle on a public highway in this State shall drive the same in a careful and prudent manner." [Laughter.]

Mr. STEVENS of Minnesota. Mr. Speaker, will the gentleman yield to me for a question?

The SPEAKER. Does the gentleman yield?

Mr. GREEN of Iowa. It does not answer my question at all. I hardly wish to take the gentleman's time by answering his question in return, although I will do so if he wishes. If the gentleman will kindly permit, my question was whether this act creates any new offense unknown to the courts under the term "unfair competition."

Mr. COVINGTON. It does not; but it does this, if I may be permitted to complete the answer: It gives this commission, when its official order is finally adjudicated in the courts under the constitutional authority that we could not take away from the courts, the power to expand the law in respect to "unfair competition," just as the law of negligence has been expanded, just as the law of fraud has been expanded, just as the law of restraint of trade has been developed, and to make "unfair methods of competition" a vital, elastic principle of the law, which is the only thing that makes the developing process of the common law worth having in this country. [Applause on the Democratic side.]

Mr. GREEN of Iowa. Does the gentleman contend that in respect to criminal matters the criminal law with reference to fraud and false pretenses has been changed?

Mr. COVINGTON. Yes; times without number.

Mr. STEVENS of Minnesota. Will the gentleman allow me a question?

Mr. COVINGTON. Yes; I yield to the gentleman.

Mr. STEVENS of Minnesota. Does the gentleman recall the fact that he brought to me a textbook on the subject of "unfair competition"?

Mr. COVINGTON. I do. I recall that I brought to the gentleman from Minnesota such a book, not knowing before I gave it to him that there was such a volume of law in existence—a textbook written by a gentleman whom I understand to be a fine legal specialist and one of the best lawyers in the city of New York—a book entitled "Nims on Unfair Competition," in which the author discusses exhaustively the whole subject that we start out with as a distinct and well-established principle of law.

Mr. STEVENS of Minnesota. Is the gentleman aware of the fact that that textbook contains a list of fifteen hundred cases on that subject, covering 30 solid pages, devoted to the defining and explaining of those cases?

Mr. COVINGTON. Yes; and I thank the gentleman for that question. I knew that he had examined the extent to which the author had dealt with the subject with some care, and I am glad to have him point out how extensive have been the court decisions on the subject. Those cases deal with every conceivable variety of act that appeals to the courts as "unfair methods of competition."

And, by the way, I call the attention of the gentleman from Iowa to a distinguished former colleague of his whom I regard as one of the ablest lawyers that ever sat in this House. Judge Walter I. Smith, now a judge of the district court of the United States for the State of Iowa. When he handed down his opinion, not yet printed, but of which the advance sheets have been issued, in the International Harvester case, he referred to the group of practices in the Government complaint as violative of the law because unfair methods of competition.

Mr. GREEN of Iowa. And already covered by the Sherman law.

Mr. COVINGTON. But, if the gentleman please, the Sherman law contains nothing except the statement that those acts constituting restraint of trade or monopoly shall be restrained and the perpetrators punished, but it leaves the character of the illegal acts to the definition of the courts. We are seeking here not to enter into any unknown or speculative realm of the law but to deal, as we ought to deal, with those practices of unfair trade in their incipient stages which if left untrammeled and uncontrolled become the acts which constitute in their culmination restraint of trade and monopoly and the groundwork of the trusts which have menaced us industrially. [Applause.]

Mr. Speaker, I wish the gentleman from Minnesota [Mr. STEVENS] and the gentleman from Illinois [Mr. MANN] to have some time in which to discuss this measure, and therefore I shall have to ask to be allowed to proceed without further interruption.

Now, Mr. Speaker, whatever we may think of the English colonial governments, they are controlled by very able men and their statutes are usually fine specimens of legal draftsmanship. The Australian act for the preservation of industries and the repression of monopolies, originally passed in 1906, provides:

> Any person who, either as principal or as agent, makes or enters into any contract, or is or continues to be a member of or engages in any combination in relation to trade or commerce with other countries or among the States—(a) in restraint of or with intent to restrain trade or commerce; or (b) to the destruction or injury of or with intent to destroy or injure by means of unfair competition any Australian industry, the preservation of which is advantageous to the Commonwealth, having due regard to the interests of producers, workers, and consumers, is guilty of an offense.

Farther on it says:

> For the purposes of section 4—

And what I have read is from section 4—

> and section 10 of this act, unfair competition means competition which is unfair in the circumstances.

And the validity of this act was specifically upheld by the Privy Council in 1913 in the case of Attorney General *v.* The Adelaide Steamship Co. (Ltd.) (Privy Council, 1913, App. Cases, 781).

The idea that "unfair competition" is a term so vague as to be meaningless was, in fact, soon abandoned by those in the Senate who originally held to that view.

But the opponents of remedial legislation of this sort were most persistent, and it then began to be asserted that unfair competition has a very definite meaning in the law, and one distinguished Senator made an extensive speech to show that there was a very clear line of cases defining the practices which are known as "unfair competition." The argument was advanced that the expression is a clear, definite, legal expression, but that its scope by the courts is limited to trade-mark cases, or those in which, without reference to the existence or nonexistence of a trade-mark, the "palming off" of goods was the particular offense.

I have not now the time to go into a very careful analysis of trade-mark or "palming-off" cases. However, one of the most important of them is the Coca Cola Co. *v.* Gay-Ola Co. (200 Fed. Rep., 720). It was there held that the manufacture and sale of an article in close imitation of the defendant's product, with the evident purpose of deceiving consumers, constituted unfair competition and should be enjoined. There is not a suggestion in the case that unfair competition is confined to the kind of practice described in the complaint.

It is a fact that in both trade-mark suits and in those where the complaint is that the defendant is palming off his goods for those of the complainant it has come to be the practice to apply the term "unfair competition" to cases which equity will enjoin, but there is absolutely nothing in the cases to show that the term is applied exclusively to such cases. They are merely two kinds of unfair competition.

Upon this subject I want to call the attention of the House to the statement of Senator HOLLIS, of New Hampshire, in his very able speech elucidating the subject of unfair competition, in the Senate on July 15 last:

> I have carefully examined many of the cases cited by the Senator to establish the point that the term "unfair competition" is confined in law exclusively to the practice of substituting one kind of goods for another. None of these cases supports the Senator's proposition. All of them, it is true, are cases in which the complainant sought to prevent the defendant from "palming off" his own goods in place of the complainant's. It was held in each case that such practices do legally constitute "unfair competition," but no case holds that "unfair competition" is limited to this class of trade deception. Any such declaration would be at best obiter dictum, for that point could not, from the nature of the case, be involved in the decision of the suit. It was for the court to decide in each instance whether the particular case came within the law against unfair competition, not whether some other case lay outside it.

Mr. Speaker, much as it may seem a novel proposition of law to those who have not investigated the subject, the term "unfair competition" or "unfair methods of competition" has a sufficiently definite meaning in law to be enforced when constituting the prohibition of a statute. And while most of the earlier cases related to the infringement of trade-marks, the term may be said now to embrace those unjust, dishonest, and inequitable practices by which one seeks to destroy or injure the business of a competitor.

In discussing the growth of the law of "unfair competition" the Encyclopedia of Law, volume 28, page 328, says:

> The law of unfair competition, including trade-marks and trade names, is of comparatively recent origin. The early cases fully recognized this doctrine, but as unfair competition by means of the imitation or infringement of trade-marks covered by far the most numerous class of cases presented, the courts fell into the practice of deciding all cases upon the doctrines of trade-mark law, and to a greater or less extent lost sight of the broader principles of unfair competition. * * * This law of trade-marks became specialized, and the law of unfair competition remained in abeyance, or, if recognized at all, was not recognized to its full extent or under that name, relief when afforded being "upon principles analogous to trade-marks." * * * The law of trade-marks, however, has been too thoroughly specialized and crystallized by statutes and decisions to become wholly merged in the law of unfair competition.

Nims on Unfair Business Competition, page 1, is as follows:

> In the digests one usually finds unfair-competition cases under the general head of trade-marks. This is misleading, for the law of trade-marks does not include unfair competition, but, rather, the law that governs trade-marks and infringements of them is but a part of the law regulating unfair and dishonest competition and trade.
>
> This misconception of the true meaning and scope of the doctrine of unfair competition may cause some to take issue with the writer on the correctness of including in a book bearing the title of Unfair Competition some of the classes of cases here included. It is believed, however, that the bar will be called upon more and more frequently to protect traders whose business is threatened with injury or destruction from many sorts of dishonest or unfair competition besides those arising out of trade-marks and trade names. Referring to the development of unfair-competition law, W. K. Townsend says: "Not yet fully adopted by all the courts, still to be developed in its application to particular circumstances and conditions, this broad principle of business integrity and common justice is the product and the triumph of the development of the law of trade-marks in the last half century and the bulwark which makes possible and protects the world-wide business reputations common and growing more common in this new country."
>
> Unfair competition is not confined to acts directed against the owners of trade-marks or trade names, but exists wherever unfair means are used in trade rivalry. Equity looks not at what business the parties before the court are engaged in, but at the honesty or dishonesty of their acts. It is unfair to pass off one's goods as those of another person; it is unfair to imitate a rival's trade name or label; but he who seeks to win trade by fair means or foul is not limited to these methods. He may copy and imitate the actual goods made or sold by a competitor; he may libel or slander these goods, make fraudulent use of a family name, of trade secrets, of corporate names, of signs, of threats of action; he may construct buildings which are reproductions of peculiar

buildings of a rival, thus producing confusion in the minds of purchasers, which enables him to purloin his rival's trade, and in a hundred other unfair ways secure another's trade. All acts done in business competition are either fair or fraudulent, equitable or inequitable, whether they relate to marks or not; and it is believed that the question of trade-marks will soon be lost sight of in discussing unfair competition, in the problem of securing, through the principles of equity, full protection to every merchant against unfair business methods.

And farther on in his work the same author (Nims on Unfair Business Competition, p. 385) says:

There are many ways other than by interference with contract, of harassing, interfering with, and obstructing a competitor in such a manner as to amount to unfair competition in the broadest sense of the term.

In support of that proposition cases are cited as follows:

In Sperry Hutchinson Co. *v.* Louis Weber Co. (161 Fed. Rep., 219) the complainant was held entitled to an injunction to prevent defendant from interfering with its business of issuing trading stamps by inducing the violation of contracts with it.

In Evenson *v.* Spaulding (150 Fed. Rep., 517) Spaulding manufactured buggies and wagons in Iowa and sold them, through itinerant salesmen, to farmers and others in the State of Washington. An association of hardware dealers in the State of Washington employed agents to follow Spaulding's salesmen, to interrupt their conversations with farmers and dissuade the latter by false statements and otherwise from buying Spaulding's goods, and in various ways to intimidate and interfere with the salesmen. This was held an unwarranted attempt to destroy complainant's business and an injunction was granted.

In Standard Oil Co. *v.* Doyle (118 Ky., 662) an injunction was isssued against the Standard Oil Co. under these circumstances: Its agents attempted to ruin the business of Doyle by making false representations to his customers and by threats and intimidations. It also harassed his employees by following and interfering with them and offering his customers oil at a lower rate or for nothing.

In Commercial Acetylene Co. *v.* Avery Portable Lighting Co. (152 Fed. Rep., 642) the bringing of a multiplicity of suits, started not in good faith, but for the purpose of deterring the public from purchasing from a rival and of ruining his trade, was enjoined.

In the case of the Standard Oil Co. *v.* United States (221 U. S.) the Supreme Court used this language:

Without attempting to follow the elaborate averments on these subjects spread over 57 pages of the printed record, it suffices to say that such averments may properly be grouped under the following heads: * * * unfair practices against competing pipe lines; * * * unfair methods of competition, such as local price-cutting at the points where necessary to suppress competition.

In United States *v.* Patterson (205 Fed. Rep., 292) there was an indictment of officers of the National Cash Register Co. for violation of the Sherman Antitrust Act. The indictment set out 11 methods of unfair competition. The defendants claimed that the alleged unlawful acts were committed against infringers of patents owned by the National Cash Register Co., and were therefore lawful. The court denied this claim, holding that a patentee for the protection of his rights under the patent is limited to the pursuit of his legal remedies in the Federal courts. The court, Hollister, J., said, at page 300:

The doctrine asserted in this case for the first time, that the rights of the patentee are of such character that those operating under them may agree, in order to protect them, to engage in acts of unlawful competition such as are charted in this case, and even to burn their competitor's factory or destroy the competing—as they believe, infringing—machines by violence * * * I am unable to agree with.

Aside from that one instance, however, there has been no evidence tending to show actual violence to a competitor's cash register in the possession of one of its customers. Therefore the argument of counsel for defendants goes further, with that one exception, than the acts of unfair competition the evidence for the Government tends to prove. But the principle is the same, whether the acts of unfair competition were acts of violence upon competitor's cash registers themselves or acts falling short of actual violence.

In United States *v.* American Tobacco Co. (221 U. S., 106), in the argument for the United States, the Attorney-General (Wickersham) and Mr. James C. McReynolds, we find, at page 122:

Moreover, if important, the evidence clearly establishes that the defendants' actions have been characterized by duress and unfair and oppressive methods.

In the same case in the lower court, United States *v.* American Tobacco Co. (164 Fed. Rep., 702), in opinion of Lacombe, J.:

There is an absence of persuasive evidence that by unfair competition or improper practices independent dealers have been dragooned into giving up their individual enterprises and selling out to the principal defendant.

In the very recent case of the United States against International Harvester Co., in the United States district court for Minnesota, decided August 2 last, and to which I have already referred, Judge Walter I. Smith said:

While the evidence shows some instances of attempted oppression of the American trade by the International and the American companies, such cases are sporadic, and in general their treatment of their smaller competitors has been fair and just, and if the International and American companies were not in themselves unlawful, there is nothing in the history of the expanding of the lines of manufacture, so as to make an all-the-year-around business, that could be condemned.

Judge Hook, concurring, said:

In the main the business conduct of the company toward its competitor has been honorable, clean, and fair.

Judge Sanborn, dissenting, said:

The evidence in this suit seems to me to present a new case under the antitrust law. No case has been found in the books, and none has come under my observation, in which the absence of all the evils against which that law was directed at the time the suit was brought and for seven years before was so conclusively proved as in this suit, the absence of unfair or oppressive treatment of competitors, of unjust or oppressive methods of competition, the absence of the drawing of an undue share of the business away from competitors and to the defendants, the absence of the raising of prices of the articles affected to their consumers, the absence of the limiting of the product, the absence of the deterioration of the quality, the absence of the decrease of the wages of the laborers and of the prices of materials—the absence, in short, of all the elements of undue injury to the public and undue restraint of trade, together with the presence of free competition which increased the share of the competitors in the interstate trade and decreased the share of the defendants.

But, Mr. Speaker, it is a recognized fact that there may be many controversies between competitors over the fairness or unfairness of methods of competition with which the public can have no concern. The trade practice or act may not even indirectly be to the detriment of the public. In such cases competitors properly ought to be left to their ordinary legal remedies through the courts. And this was the thought of those Senators who most carefully considered this bill in the Senate. Senator CUMMINS, of Iowa, said:

We have chosen to report a rule for the trade commission in the language which has been suggested, namely, "unfair competition." It is that competition which is resorted to for the purpose of destroying competition, of eliminating a competitor, and of introducing monopoly. That is the "unfair competition" in its broad sense which this bill endeavors to prevent. * * * The unfairness must be tinctured with unfairness to the public, not merely with unfairness to the rival or competitor. * * * We are not simply trying to protect one man against another; we are trying to protect the people of the United States, and of course there must be in the imposture or in the vicious practice or method something that has a tendency to affect the people of the country or be injurious to their welfare. (CONGRESSIONAL RECORD, June 25, 1914, pp. 12150–12151.)

And Senator HOLLIS, of New Hampshire, later on said:

One of the great issues in the last presidential campaign was whether the solution of the trust problem was to be found in the regulation of monopoly or in the regulation of competition. The Democratic party declared itself for the abolition of monopoly and the regulation of competition. The regulation of competition means the prevention of competition that destroys for the purpose of gaining monopoly, and so is harmful to the public—the prevention, in short, of unfair competition. The Sherman Act is adequate for the abolition of monopoly; it is, however, but imperfectly adequate for the regulation of competition. The present Congress is charged with the duty of supplying the defect in the law. (CONGRESSIONAL RECORD, July 15, p. 13223.)

As the bill passed the Senate there was not, however, any limitation in section 5, relating to unfair competition, directing the trade commission to deal with cases only where a public interest is involved, so the conferees agreed to insert a provision that the commission shall act—

if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public.

That prevents the commission from becoming a clearing house to settle the everyday quarrels of competitors, free from detriment to the public, which should be adjusted through the ordinary processes of the courts.

Some of the few extreme opponents of section 5 have, however, declared that it is unconstitutional, because it involves a delegation of legislative power to the Federal trade commission. Happily there are not many persons left who advance that view; but in order to clear up the point once for all I give to the House a few decisions which I think absolutely settle that question.

In Butterfield *v.* Stranahan (192 U. S., 470) the act of Congress was directed against the importers of inferior tea. The language of the act was that it should be unlawful—

to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 3 of this act, and the importation of all such merchandise is hereby prohibited.

Section 2 provides for the appointment by the Secretary of the Treasury, immediately after the passage of the act and on or before February 15 of each subsequent year, of the board of tea experts, "who shall prepare and submit to him standard samples of tea" which were not inferior in purity. The validity of the law was challenged on the ground that it was an undue

delegation of legislative power, and that it was so vague that it did not fix rational and enforceable limits, and therefore was not such a statute as a court could enforce. Chief Justice White, in rendering the opinion in that case, said:

The claim that the statute commits to the arbitrary discretion of the Secretary of the Treasury the determination of what teas may be imported, and therefore, in effect, vests that official with legislative power, is without merit. We are of opinion that the statute, when properly construed, as said by the Circuit Court of Appeals, but expresses the purpose to exclude the lowest grades of tea, whether demonstrably of inferior purity or unfit for consumption or presumably so because of their inferior quality. This, in effect, was the fixing of a primary standard, and devolved upon the Secretary of the Treasury the mere executive duty to effectuate the legislative policy declared in the statute. The case is within the principle of Field *v.* Clark (143 U. S., 649), where it was decided that the third section of the tariff act of October 1, 1890, was not repugnant to the Constitution as conferring legislative and treaty-making power on the President, because it authorized him to suspend the provisions of the act relating to the free introduction of sugar, molasses, coffee, tea, and hides. We may say of the legislation in this case, as was said of the legislation considered in Field *v.* Clark, that it does not, in any real sense, invest administrative officials with the power of legislation. Congress legislated on the subject as far as was reasonably practicable, and from the necessities of the case was compelled to leave to executive officials the duty of bringing about the result pointed out by the statute. To deny the power of Congress to delegate such a duty would, in effect, amount but to declaring that the plenary power vested in Congress to regulate foreign commerce could not be efficaciously exerted.

In Union Bridge Co. *v.* United States (204 U. S., 365), section 18 of the river and harbor act of March 3, 1899, provides that whenever the Secretary of War shall have reason to believe that any bridge over any navigable waterway of the United States is an unreasonable obstruction to the free navigation of such waters, it shall be his duty, after hearing, to order alteration of the bridge so as to render navigation unobstructed, specifying changes to be made, and prescribing reasonable time in which to make them. Willful failure to obey the order is made a criminal misdemeanor.

This statute does not delegate legislative power. Harlan, J., page 385:

It would seem too clear to admit of serious doubt that the statute under which the Secretary of War proceeded is in entire harmony with the principles announced in former cases. In no substantial, just sense does it confer upon that officer as head of an executive department powers strictly legislative or judicial in their nature, or which must be exclusively exercised by Congress or by the courts. * * * As appropriate to the object to be accomplished, as a means to an end within the power of the National Government, Congress, in execution of a declared policy, committed to the Secretary of War the duty of ascertaining all the facts essential in any inquiry whether particular bridges over the waterways of the United States were unreasonably obstructions to free navigation.

Congress could have determined the fact itself, but this was impracticable because Congress has so much else to do. The court further said:

By the statute in question Congress declared in effect that navigation should be freed from unreasonable obstructions arising from bridges of insufficient height, width of span, or other defects. It stopped, however, with this declaration of a general rule and imposed upon the Secretary of War the duty of ascertaining what particular cases came within the rule prescribed by Congress, as well as the duty of enforcing the rule in such cases. In performing that duty the Secretary of War will only execute the clearly expressed will of Congress, and will not, in any true sense, exert legislative or judicial power.

In United States *v.* Grimand (220 U. S., 506) the acts relating to forest reservations show that they were intended "to improve and protect the forest and to secure favorable conditions of water flows." It was declared that the acts should not be "construed to prohibit the egress and ingress of actual settlers" residing therein nor "to prohibit any person from entering the reservation for all proper and lawful purposes, provided that such persons comply with the rules and regulations covering such forest reservation." It was also declared that the Secretary of Agriculture "may make such rules and regulations and establish such service as will insure the objects of such reservation, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of the provisions of this act or such rules and regulations shall be punished," as provided in Senate bill 5388. (Ch. 3, p. 1044, Rev. Stats., as amended.)

This case arose on indictment for grazing sheep on reservation without having obtained permission required by the regulations adopted by the Secretary of Agriculture. Demurrer was sustained, and Government sued out writ of error to Supreme Court. Defendants in error argued (1) that the law was unconstitutional, because it did not sufficiently define or define at all what acts done or omitted to be done within the supposed purview of the said act should constitute an offense or offenses against the United States; (2) the law is unconstitutional, as it is not within the power of Congress to delegate to the Secretary of Agriculture authority or power to determine what acts shall be criminal; and the act in question is a delegation of legislative power to an executive officer to define and establish what shall constitute the essential elements of a crime against the United States.

The Supreme Court reversed the judgment of the court below (Lamar, 585):

Under these acts, therefore, any use of the reservation for grazing or other lawful purpose was required to be subject to the rules and regulations established by the Secretary of Agriculture. To pasture sheep and cattle on the reservation at will and without restraint might interfere seriously with the accomplishment of the purposes for which they were established. But a limited and regulated use for pasturage might not be inconsistent with the object sought to be attained by the statute. The determination of such questions, however, was a matter of administrative detail. What might be harmless in one forest might be harmful to another. What might be injurious at one stage of timber growth, or at one season of the year, might not be so at another. In the nature of things it was impracticable for Congress to provide general regulations for these various and varying details of management. Each reservation had its peculiar and special features; and in authorizing the Secretary of Agriculture to meet these local conditions Congress was merely conferring administrative functions upon an agent, and not delegating to him legislative power.

Page 517:

From the beginning of the Government various acts have been passed conferring upon executive officers power to make rules and regulations; not for the government of their departments, but for administering the laws which did govern. None of these statutes could confer legislative power. But when Congress had legislated and indicated its will, it could give to those who were to act under such general provisions "power to fill up the details" by the establishment of administrative rules and regulations the violation of which could be punished by fine or imprisonment fixed by Congress, or by penalties fixed by Congress, or measured by the injury done.

Thus it is unlawful to charge unreasonable rates or to discriminate between shippers; and the Interstate Commerce Commission has been given authority to make reasonable rates and to administer the law against discrimination. (Int. Com. Comn. *v.* I. C. R. R., 215 U. S., 452; Int. Com. Comn. *v.* C. R. I., etc. R. R., 218 U. S., 88.) Congress provides that after a given date only cars with drawbars of uniform height should be used in interstate commerce, and then constitutionally left to the commission the administrative duty of fixing a uniform standard. (St. L. & I. M. R. R. *v.* Taylor, 210 U. S., 281, 287; In Union Bridge Co. *v.* U. S., 204 U. S., 364; in re Kollock, 165 U. S., 526; Buttfield *v.* Stranahan, 192 U. S., 470.) It appeared from the statutes involved that Congress had either expressly or by necessary implication made it unlawful, if not criminal, to obstruct navigable streams, to sell unbranded oleomargarine, or to import unwholesome teas. With this unlawfulness as a predicate, the executive officers were authorized to make rules and regulations appropriate to the several matters covered by the various acts. A violation of these rules was then made an offense punishable as prescribed by Congress. But in making these regulations the officers did not legislate. They did not go outside of the circle of that which the act itself had affirmatively required to be done or treated as unlawful if done. But, confining themselves within the field covered by the statute, they could adopt regulations of the nature they had thus been generally authorized to make in order to administer the law and carry the statute into effect.

Mr. Speaker, the rule of law which the trade commission will administer is the rule declaring unfair competition to be unlawful. In enacting that rule Congress will clearly indicate the result it desires to bring about; and in enforcing the rule so as to bring about the result pointed out by the statute, the commission will exercise administrative and not legislative power.

With the proposition settled of dealing with unfair competition detrimental to the public and potential for restraint of trade or monopoly, by a prohibition such as this act contains, there was raised a very live question among the conferees. The original bill as reported to the Senate provided arbitrarily for the issue of the order of the commission against a corporation alleged to be using unfair competition and left to the courts the determination of the extent of their right of review.

This was so indefinite and uncertain that in the Senate various propositions were offered as amendments, setting out how the commission should conduct its hearings, how the orders of the commission should be enforced in the courts, and to what extent the questions involved in orders should be reviewed or retried by the courts. The discussion reverted to the old controversy between a "broad review" and a "narrow review," which was such a live issue at the time of the passage of the Hepburn Act amending the act to regulate commerce, in 1906, and finally the procedure analogous to that relating to the review of the orders of the Interstate Commerce Commission was adopted on the final vote in the Senate.

Assuming that such a review as is provided by the Hepburn Act is desirable, which I personally do not believe, nevertheless a careful analysis of the powers to be exercised by the trade commission shows that there is a very grave question whether a restricted review of orders, similar to that under the Hepburn Act, would not involve an unconstitutional delegation of judicial power. If this is true, it would be wiser, in the case of the Federal trade commission, not to follow the Hepburn Act, but in other ways to limit the power of the courts to review the orders of the commission just as much, but no more, than the Constitution certainly permits. There is a fundamental difference between the nature of the power exercised by the Interstate Com-

merce Commission in issuing orders under the Hepburn Act and the nature of the power which will be exercised by the Federal trade commission in issuing orders with regard to unfair competition.

The Hepburn Act empowers the Interstate Commerce Commission to prescribe the rates to be charged in future. That power is legislative in its nature. Courts can not interfere with the constitutional exercise of legislative power. That is the ground upon which the limitation of the power of the courts to review orders of the Interstate Commerce Commission issued under the Hepburn Act has been sustained. (Prentis *v.* Atlantic Coast Line, 211 U. S., 210; Interstate Commerce Commission *v.* Illinois Central R. R., 215 U. S., 452; Philadelphia, etc., Ry. Co. *v.* I. C. C., 174 Fed. Rep., 687, 688; Southern Pac. Co. *v.* I. C. C., 177 Fed. Rep., 963, 964.)

The Federal trade commission will have no power to prescribe the methods of competition to be used in future. In issuing its orders it will not be exercising power of a legislative nature. The basis, therefore, upon which the validity of the "narrow" court review provided by the Hepburn Act rests will be lacking.

The function of the Federal trade commission will be to determine whether an existing method of competition is unfair, and, if it finds it to be unfair, to order the discontinuance of its use. In doing this it will exercise power of a judicial nature. Under the Constitution power to act finally in a judicial capacity can be conferred only upon a court. (Kilbourn *v.* Thompson, 103 U. S., 168.)

For the reason stated, there is no analogy between the power of the Interstate Commerce Commission under the Hepburn Act and the power of the Federal trade commission in regard to unfair competition. There is, however, a perfect analogy between the former power of the Interstate Commerce Commission under the Cullom Act and the power of the Federal trade commission. Under the Cullom Act the Interstate Commerce Commission had the power only to determine whether an existing rate was unreasonable, and, if it so found, to order the railroad to cease and desist from charging that rate. The Federal trade commission will have precisely similar power in regard to an existing method of competition. It is instructive, therefore, to examine the decisions in cases arising under the Cullom Act, bearing in mind that the orders of the commission under that act were not final, but were subject to review by the courts.

In the Maximum Rate case (I. C. C. *v.* Cincinnati, etc., R. R. Co., 167 U. S., 477), which arose under the Cullom Act, the court, by Mr. Justice Brewer, at page 499, said:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act.

And at page 501:

> The power given is the power to execute and enforce, not to legislate. The power given is partly judicial, partly executive and administrative, but not legislative.

In Western Union Telegraph Co. *v.* Myatt (99 Fed. Rep., 335) Judge Hook said, page 342:

> The legislative prerogative is the power to make the law; to prescribe the regulation or rule of action. The jurisdiction of the courts is to construe and apply the rule or regulation after it is made. The two functions are essentially and vitally different.

And again, at page 352:

> Its [the legislature's] acts, generally speaking, are prospective in their operation, while the jurisdiction of courts is exercised upon past or existing conditions.

In an early case (Kentucky & I. Bridge Co. *v.* Louisville & Nashville Railroad Co., 37 Fed. Rep., 567) decided by Judge Jackson, afterwards a justice of the Supreme Court, a railroad company contended that the Cullom Act was unconstitutional because it delegated judicial power to the commission, which was not a court. The court decided that the contention was unfounded because the orders of the commission were not final or binding, but could be enforced only by the courts and were subject to review by the courts. Judge Jackson said (pp. 612–613):

> While the commission possesses and exercises certain powers and functions resembling those conferred upon and exercised by regular courts, it is wanting in several essential constituents of a court. Its action or conclusion upon matters of complaint brought before it for investigation, and which the act designates as the "recommendation," "report," "order," or "requirement" of the board, is neither final nor conclusive; nor is the commission invested with any authority to enforce its decision or award. Without reviewing in detail the provisions of the law we are clearly of the opinion that the commission is invested with only administrative powers of supervision and investigation, which fall far short of making the board a court or its action judicial, in the proper sense of the term. The commission hears, investigates, and reports upon complaints made before it involving alleged violations of or omission of duty under the act; but subsequent judicial proceedings are contemplated and provided for, as the remedy for the enforcement, either by itself or the party interested, of its order or report in all cases where the party complained of or against whom its decision is rendered does not yield voluntary obedience thereto.

Judge Jackson further said:

> The functions of the commission are those of referees or special commissioners appointed to make preliminary investigation of and report upon matters for subsequent judicial examination and determination. In respect to interstate-commerce matters covered by the law, the commission may be regarded as the general referee of each and every circuit court of the United States upon which the jurisdiction is conferred of enforcing the rights, duties, and obligations recognized and imposed by the act.

Manifestly if the Cullom Act had attempted to give to the orders of the Interstate Commerce Commission the binding force which the Hepburn Act gives them, the court would have held that this involved an unconstitutional delegation of judicial power.

The following quotation is taken from an article by Charles A. Prouty, formerly a member of the Interstate Commerce Commission, entitled "Court review of the orders of the Interstate Commerce Commission" (18 Yale Law Journal, 297, at p. 300):

> The wide difference between the function of the commission under the present act and its functions under the original statute must be clearly apprehended. Before the last amendment it was entirely an administrative or quasi-judicial body. It was required to find certain facts and to draw its conclusions from those facts. Its facts and conclusions were by the terms of the act itself made subject to the approval of the courts. As was said by one circuit court, speaking through a judge afterwards a member of the Supreme Bench, the commission was in essence a master in chancery to the court, and while the court would give to its findings and conclusions the respect due to those of an expert body, they were still always subject to review by the court itself. The domain of the commission and the domain of the courts were the same.
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> To-day in the fixing of a future rate this is entirely otherwise. The commission acts not in the present, but in the future. It is not an arm of the court, but of the legislature.

In Printis *v.* Atlantic Coast Line (211 U. S., 210) the Supreme Court analyzes the difference between judicial and legislative power and clearly indicates the test by which they are to be distinguished. In that case it appeared that the railroad commission of the State of Virginia had prescribed certain railroad rates to be charged in the future. The railroads sued in a Federal court to set aside the order of the commission. The defense of the commission was that it had acted as a court, and that under section 720 of the Revised Statutes a Federal court has no right to interfere with the action of a State court. The Supreme Court, however, held that the commission in fixing a rate for the future did not act as a court, but exercised legislative power. The court, by Mr. Justice Holmes, said, pages 223 and 227:

> But we think it equally plain that the proceedings drawn in question here are legislative in their nature, and none the less so that they have taken place with a body which at another moment, or in its principal or dominant aspect, is a court such as is meant by 720. A judicial inquiry investigates, declares, and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. That is its purpose and end. Legislation, on the other hand, looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power. The establishment of a rate is the making of a rule for the future, and therefore is an act legislative, not judicial, in kind, as seems to be fully recognized by the supreme court of appeals (Commonwealth *v.* Atlantic Coast Line Ry. Co., 106 Va., 61, 64), and especially by its learned president in his pointed remarks in Winchester and Strasburg R. R. Co. and others *v.* Commonwealth (106 Va., 264, 281). See, further, Interstate Commerce Commission *v.* Cincinnati, New Orleans & Texas Pacific Ry. Co. (167 U. S., 479, 499, 500, 505); San Diego Land & Town Co. *v.* Jasper (189 U. S., 439, 440).
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> Proceedings legislative in nature are not proceedings in a court within the meaning of Revised Statutes, section 720, no matter what may be the general or dominant character of the body in which they may take place (Southern Ry. Co. *v.* Greensboro Ice & Coal Co., 134 Fed. Rep., 82, 94, affirmed sub. nom.; McNeill *v.* Southern Ry. Co., 202 U. S., 543.) That question depends not upon the character of the body, but upon the character of the proceedings. (Ex parte Virginia, 100 U. S., 339, 348.) They are not a suit in which a writ of error would lie under Revised Statutes, section 709, and act of February 18, 1875. (Chap. 80, 18 Stat., 318.) (See Upshur County *v.* Rich, 135 U. S., 467; Wallace *v.* Adams, 204 U. S., 415, 423.) The decision upon them can not be res judicata when a suit is brought. (See Regan *v.* Farmers Loan & Trust Co., 154 U. S., 362.) And it does not matter what inquiries may have been made as a preliminary to the legislative act. Most legislation is preceded by hearings and investigations. But the effect of the inquiry and of the decision upon it is determined by the nature of the act to which the inquiry and decision lead up. A judge sitting with a jury is not competent to decide issues of fact; but matters of fact that are merely premises to a rule of law he may decide. He may find out for himself, in whatever way seems best, whether a supposed statute ever really was passed. In Pickering *v.* Barkley (Style, 132) merchants were asked by the court to state their understanding as an aid to the decision of a demurrer. The nature of the final act determines the nature of the previous inquiry. As the judge is bound to declare the law he must know or discover the facts that establish the law. So when the final act is legislative the decision which induces it can not be judicial in the practical sense, although the questions considered might be the same that would arise in the trial of a case. If a State constitution should provide for a hearing before any law should be passed, and should declare that it should be a judicial proceeding in rem and the decision binding upon all the world, it is hardly to be supposed that the simple device could make the constitutionality of the law res judicata, if it subsequently should be drawn in question before a court of the United States. And all that we have said would be equally true if an appeal had been taken to

the Supreme Court of Appeals and it had confirmed the rate. Its action in so doing would not have been judicial, although the questions debated by it might have been the same that might come before it as a court, and would have been discussed and passed upon by it in the same way that it would deal with them if they arose afterwards in a case properly so called.

In Baer Bros. *v.* Denver & Rio Grande Railroad (233 U. S., 479) the court, by Mr. Justice Lamar, said, at page 486:

But awarding reparation for the past and fixing rates for the future involve the determination of matters essentially different. * * * One is made by the commission in its quasi judicial capacity to measure past injuries sustained by a private shipper, the other in its quasi legislative capacity to prevent future injury to the public.

It is to be remembered that the orders of the commission awarding reparation are not binding and final.

It is argued that the power of the Federal trade commission to issue final orders may be sustained upon the authority of cases which have decided that Congress may delegate to an administrative official power to determine some fact or state of things upon which the enforcement of its enactment depends. Thus, under the Chinese-exclusion act it was held that the immigration officials had power to decide finally the fact that a person seeking admission was not a citizen of the United States. (United States *v.* Ju Toy, 198 U. S., 253.) Where, however, the question of alienage or citizenship is dependent upon a matter of law and not a determination purely of fact, the matter will be reviewed by the courts. So in Gonzales *v.* Williams (192 U. S., 1), the court overruled the determination of the immigration officials and decided that a native of Porto Rico, who was an inhabitant of that island at the time of its cession to the United States, upon her arrival at a port in this country was entitled not to be treated as an alien immigrant within the meaning of the act of Congress of 1891.

It would seem clear that the determination of the question whether a method of competition is unfair is not a determination purely of fact, but necessarily involves the determination of a question of law. The Federal trade commission will, it is true, have to pass upon many complicated issues of fact, but the ultimate question for decision will be whether the facts found constitute a violation of the law against unfair competition. In deciding that ultimate question the commission will exercise power of a judicial nature. Its action will not be analogous to the act of an executive officer in determining the fact that a person is not a citizen of the United States (U. S. *v.* Ju Toy, supra), or that tea which is sought to be imported does not measure up to the standard prescribed by Congress. (Buttfield *v.* Stranahan, 192 U. S., 470.) It will be analogous, as previously shown, to the action of the Interstate Commerce Commission under the Cullom Act in determining whether an existing rate is unreasonable and in some respects to the action of the Commissioner of Patents in awarding priority of invention to an applicant and adjudging him to be entitled to a patent. In Butterworth *v.* Hoe (112 U. S., 50) the Supreme Court held that the Commissioner of Patents acts in a quasi judicial capacity, and therefore his decision is not reviewable by his superior executive officer, the Secretary of the Interior, but only by a court. The court, by Mr. Justice Matthews, said, at page 59:

The investigation of every claim presented involves the adjudication of disputed questions of fact, upon scientific or legal principles, and is therefore essentially judicial in its character and requires the intelligent judgment of a trained body of skilled officials expert in the various branches of science and art, learned in the history of invention, and proceeding by fixed rules to systematic conclusions.

United States *v.* Duell (172 U. S., 576) is a decision to the same effect.

Mr. Speaker, I simply want to say in conclusion that the conferees from both parties in this House and from both parties in the Senate approached this great subject of the creation of a Federal trade commission realizing that it was a subject fraught with momentous consequence to the business and the people of the country. They approached it in a spirit of broad-mindedness, in a spirit of complete absence of partisanship, with a firm determination to place upon the statute book as beneficent a piece of legislation as they could, to deal with the preservation of those competitive conditions of industry and business in this country which we all recognize as essential to our well-being. The conferees believe they have produced such a piece of legislation, and they submit this bill to you with the confident hope that it will be promptly adopted. At the time the original bill passed the House I made this statement:

If this commission shall be created, the clear vision, ripe experience, and abiding patriotism of the President can be depended upon to select for its membership men of the character and capacity to make it in its field as great a success as the Interstate Commerce Commission.

With a commission of big and broad-minded men, firm for the enforcement of the law and wise in their judgment of business, the way will be cleared for healthy competition in this country for a long time to come. [Applause.]

Mr. RAYBURN. I yield such time to the gentleman from Minnesota [Mr. STEVENS] as he may desire. [Applause.]

Mr. STEVENS of Minnesota. I should like 10 minutes.

The SPEAKER. The gentleman from Minnesota is recognized for 10 minutes.

Mr. STEVENS of Minnesota. Mr. Speaker, I am very glad to join in this conference report, because I believe it is an act of beneficent legislation which will be the commencement of very great benefits to the commerce and to the people of this country. As the gentleman from Maryland [Mr. COVINGTON] has so well stated, the members of the Committee on Interstate Commerce and the members of the conference committee of both bodies and of all parties have approached this subject from a nonpartisan standpoint and have sought only to produce a measure which shall be of real service to the country. But I will beg the indulgence of the House for a few moments in analyzing it from a different standpoint than that of the gentleman from Maryland. Briefly, before that, I wish to refer to a partisan feature of this bill, and I do it for the benefit of those on the Republican side of the House.

As the Members of the House know, some of us on the Republican side—and I rather think, from the record of this Congress, on the Democratic side also—do not altogether fall down and worship party platforms. For my part, I have been very glad to assist some of our Democratic brothers in violating, or at least in not enforcing, some planks of their platform. For the welfare of the country, I think it is a patriotic thing to do. But at this time I wish to call the attention of the Members on this side of the House to the Republican platform on this subject, and then to this legislation, which exactly complies with the declaration of the platform, because much of the criticism of this measure has come from Republicans.

The Republican platform of the last Chicago convention contains a plank which reads as follows—and I will read it exactly as it is, in toto:

FEDERAL TRADE COMMISSION.

In the enforcement and administration of Federal laws governing interstate commerce and enterprises impressed with a public use engaged therein, there is much that may be committed to a Federal trade commission—

Exactly the title of this measure—

thus placing in the hands of an administrative board many of the functions now necessarily exercised by the courts. This will promote promptness in the administration of the laws and avoid delays and technicalities incident to court procedure.

That was the declaration of the last Republican national platform.

This measure conforms exactly with that declaration of the platform, so that Republicans, at least, can well afford to favorably consider it. It is in terms, in scope, and in substance exactly what the Republican national platform called for and advocated, and those Republicans who care to oppose this bill should do so with a full knowledge of the pledge of their party platform. There is nothing new as to any party violating pledges or platforms. So I do not criticize any Members on this side who believe such to be their duty. But I do wish to emphasize that the basis for this legislation is good Republican doctrine which we pledged to the people, and that in the formulation and support of it we are only keeping the faith of our party. I do not think it matters if it be also advocated by a Democratic President and passed by a Democratic Congress. Indeed, it is so much the better, because it is in this way an indorsement of the wisdom, statesmanship, and patriotism of Republican leadership, and that we have confidence in the good judgment of the people to discern who does the proper and patriotic things for the general benefit of the country. The President, his administration, and the Democratic House and Senate will receive and deserve commendation for this legislation, but in the main it will be because they had the good sense to adopt our policies and declarations. I call attention to this partisan view, not because it affects the merits of the measure or dictated the action of the Republican representatives on the committee, but because the main criticism has come from Republican sources.

SUBSTANCE OF BILL.

Now, I will outline briefly what we have done: In the first place, it is implied in and through this measure and as a basis for it that whatever business in this country holds itself out to the public as doing business for or with the public, furnishing facilities to or for the public or essentially affecting the public interest or welfare, is impressed with the public use, and for that reason is included within its scope and is subject to public regulation. That is the necessary implication in and basis of a measure of this kind. Then in the enforcement of the law this

commission does perform some functions which are now performed by the courts. I will state in another way what the gentleman from Maryland [Mr. COVINGTON] has so well and accurately stated. In this measure there is not one single function of public importance which is not now performed by some public authority, either by the executive or the legislative or by the judicial branches of our Government—not one single new subject in it.

The only thing this bill does or attempts is to correlate the different functions now performed by the different public authorities into one organization and make it a practical, efficient, harmonious organization of our Federal Government to work out a concededly beneficial purpose. A commission of this broad scope must necessarily embrace within itself functions or powers belonging to the three different departments of our Government—the executive, the legislative, and the judicial. That is the very purpose of its existence, else the work could be done, as now, by the separate bureaus or courts or committees having public powers. It is because they have not succeeded that this combination of functions is made.

BILL ANALYZED.

If the committee will bear with me, I will analyze briefly the different functions of this organization as to the different governmental branches. First, the executive. The commission will have the power, as provided now in the Bureau of Corporations, of gathering and compiling information and furnishing it to the business interests of the country. That is a very valuable function, and if well done and appreciated can be made very helpful, especially if performed by a commission of ability, power, and dignity, and if the proper machinery be afforded for the work. It can cooperate with the National Chamber of Commerce, which would seem to have a great opportunity and, we hope, a great future, and together they can be extremely beneficial to the business of the country.

Mr. COVINGTON. Will the gentleman permit an interruption?

Mr. STEVENS of Minnesota. Certainly.

Mr. COVINGTON. Is it not a fact that that very power was suggested in various forms to members of the committee of the House, to members of the committee of the Senate, and to the conferees as one that ought to be exercised in the broadest way in the interest of the business men themselves? Is not that one of the things which they expressly desired should be conferred on the commission?

Mr. STEVENS of Minnesota. Yes; and I am glad to have the gentleman state so clearly what was desired. Then there is the power to compel reports and give general public information, maybe of much value to the country. Another function which is given to the commission, which the business interests of this country desired, is that an opportunity is afforded to honest business interests desiring to come within the law and to obey the law in the conduct of their affairs to find out what ought to be done and how business should be legally and properly carried on. Some of the gentlemen who appeared before the Committees on Interstate Commerce, both of the House and the Senate—and, I presume, before the Judiciary Committees both of the House and the Senate—asked that power be given to the commission to give them practically an immunity in advance for business practices approved by the commission.

Mr. MADDEN. Will the gentleman yield?

Mr. STEVENS of Minnesota. If the gentleman will wait until I have finished this statement. Your committee believed that that should not be done, but that the business organizations of this country should have every facility to be furnished with the information, to be brought into proper contact with the public officials, that opportunity should be afforded them to have consultation in a proper way, in a legal way, so that their business might be conducted in accordance with the law. When that is done in good faith, we have no doubt that it will practically operate as an immunity. Public officials are not faithless and have no desire to harass honest men or business and injure or destroy honest industries. The contrary is the case, and I strongly believe this method of legal consultation and advice is all the immunity needed for honest business concerns. Experience may show that more may be required. But it is a good plan not to go too far or fast in such an important matter. We have provided for that important power in two different particulars—first, in section 6 (e), granting to the Attorney General the authority to use the commission to arrange for readjustments of business concerns, and, secondly, as to foreign trade in section 6 (h), where the same power is given with recommendations for legislative or executive action. We think these powers are broad and can be very helpful to our country's interests in the extension of our foreign commerce. We trust they will be exercised at once, and if experience shows that there should be a change or enlargement of powers as to this very important subject, Congress can then have the proper basis for its action.

Mr. MADDEN. I wanted to ask the gentleman whether the bill gives the commission the power to define the limits within which business can be conducted?

Mr. STEVENS of Minnesota. No; and yet, in a certain way, business may be within such an indefinable scope that that could not be done, or in consultation with the Department of Justice lines may be defined. It could be the same as to foreign commerce. If cooperation be necessary, the department here has authority to use the commission to lay down the lines for such wherever it should be necessary and not illegal.

Mr. MADDEN. I am speaking of a particular business.

Mr. STEVENS of Minnesota. Well, business changes as time changes; but a general method of advice, information, and assistance is provided which should be helpful. And when the commission and the Attorney General agreed upon a certain line of conduct, the concern which falls within it is in no great danger of prosecution.

Mr. MADDEN. Suppose the gentleman himself is doing a particular business and has some doubt as to the legality of the methods employed. Is it within the power of this commission to say what a legal method would be?

Mr. STEVENS of Minnesota. Yes; a business concern can do this: Its manager can go to the Attorney General and state: "We are doing this kind of a business; we are anxious to observe the law, and if we are doing anything wrong we want to be notified." The Attorney General can notify the commission, and the commission could take the matter up with the manager, ascertain conditions, necessities, and practices, and then can indicate how the business should be readjusted—I think that is the language of the bill—to conform to the law. The Attorney General could follow such advice as he pleased, and he probably would, if the commission shall be of high ability, character, and experience. So that practically the business world will be advised as to how it should conduct its business in a proper way. The same thing can be done in reference to foreign business, only to a larger degree, as special provision was made as to that subject. We did not desire to grant specific immunity in advance; but as to all else this bill does provide exactly as was desired by the business men who appeared. So the relief they desired is here provided——

Mr. TALCOTT of New York. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. TALCOTT of New York. I want to suggest that that is necessary because of the changing conditions under which business is now conducted, particularly the increased volume.

Mr. STEVENS of Minnesota. Yes. The gentleman is right. We must not lay down too rigid rules at the outset, or the commission might be swamped with troubles and the business world would suffer from too much and rigid regulation.

Mr. MADDEN. Will the gentleman yield again?

Mr. STEVENS of Minnesota. Certainly.

Mr. MADDEN. Do the conferees understand, and wish to have the House understand, that this does away with the Sherman law?

Mr. STEVENS of Minnesota. Not at all; it expressly does not. It is a method of enforcing it and making it more effective and prevent its misuse. We do not change any provision or substance of the Sherman law. That should be clearly understood.

Mr. TALCOTT of New York. It takes care of the tendencies toward violation of the Sherman law—acts which the Sherman law can not treat of.

Mr. STEVENS of Minnesota. The gentleman is accurate, as he always is, and states exactly the purpose of this bill; and I will come to that when I reach section 5—the judicial part of this bill.

The SPEAKER pro tempore. The gentleman has occupied 10 minutes.

Mr. RAYBURN. I will yield the gentleman five minutes more.

Mr. STEVENS of Minnesota. The same conditions will exist in the treatment of foreign trade. It is realized that the conditions as to competition, transportation, credits, and financing foreign trade are quite different than for domestic trade, and our Nation in competing with other nations in the Orient and at South America will be obliged to conform to existing conditions there and to competition there. Now, this bill provides that this commission shall examine that situation, shall communicate with Congress and with the President, and shall have power to allow the same method of readjustment as in domestic business, not changing any law or provision of

substantive law, but to indicate by information and assistance and advice how business can be carried on within the existing law. Where the high officials of the Government know the methods and necessities of business and can easily ascertain them, and conversely the managers have a proper method of seeking information so that they can adjust themselves to the requirements, they did not believe that many occasions would arise where it would be necessary to have a hard and fast order for immunity to inspire confidence in both officials and business managers. It is well to try this plan first to see if it be successful.

Mr. WILLIS. Mr. Speaker, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. WILLIS. While I approve in general of the conference agreement and shall vote for the bill on its final passage I wish to ask the gentleman a question about the definition of commerce. The gentleman will recall in the bill as passed by the House that commerce was defined as all "such commerce as Congress has power to regulate under the Constitution." The Senate bill has the same definition; but the conference report has the following provision:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

I am wondering what the reason was that led the conferees to provide in the conference agreement that the word "commerce" should be so defined as to exclude from the operations of the act commerce with the Canal Zone, Porto Rico, Guam, and the Philippines, yet at the same time including commerce with Alaska and Hawaii. No reason has been given by anyone for this distinction.

Mr. STEVENS of Minnesota. The gentleman from Kentucky [Mr. SHERLEY] propounded that question, and the gentleman from Maryland [Mr. COVINGTON] answered it. The reason was that we did not think that the scope of the commission should be extended that far, to embrace our foreign possessions. That conditions there are so different than here that they could be handled by local authorities better than by a commission 7,000 miles away in the city of Washington. If the scope of the commission needs to be extended hereafter to any of them, it can be done, but at present we thought it would hamper rather than to help business there and here. The commission should have enough to do here in the United States.

LEGISLATIVE FUNCTION.

The legislative function of this commission is very evident.

First. It has the power to investigate for the benefit of Congress. It really performs the functions of a committee of Congress in the line of investigation and compilation and recommendation. It can ascertain all of the facts, as we constitutionally have the power to do, or we can commit that power to a commission or to a committee to do that. That is what we do in this case. It is an especially valuable function, and its beneficial work will be along the line of recommendation to Congress and the President. There are three lines of recommendation and study that undoubtedly will be pursued. First, in the modification of existing laws, or the laws which may exist hereafter. The gentleman referred to the Sherman antitrust law. That is a Federal statute defining practically what can and can not be done in the business world as to combinations and contracts and agreements and monopolies in commerce. That that law and its operation and enforcement have not worked satisfactorily in this country seems to be assumed. The antitrust bill does attempt to modify this statute with respect to labor unions and farmers' organizations, and there have been strong representations made to the Judiciary Committee in the House, to the Interstate Commerce Committee in the Senate, and to our committee, after a fashion, to have further modifications of that statute.

My own judgment is that the law must be modified hereafter as the commission shall carefully study the subject. Congress has decided that it should be properly modified in the manner indicated as to labor unions and farmers' associations. It is also very strongly urged that it must be modified also as to foreign trade in some way in the future. Various important business interests in the country, such as the retail grocers and retail druggists and producers of coal and lumber, urge some modifications in the public interest. These modifications, however, ought only to be made after the most careful examination by a body especially equipped, having the confidence of the country, after great study and after prescribing the right kind of limitations. That is one thing that this commission probably must consider. It is the only public body which would have the power and facilities to perform this very important task, which may be at the foundation of our material prosperity and advancement. This question will be presented at once. What is the best method from the public standpoint, from the public interest, to control large business concerns, by rigid legal prohibition and penalties or by regulatory processes by a high-grade commission, equipped with proper authority and machinery, and with confidence and ability to regulate for the public interest? One can not decide in advance what decision shall be reached. It must be for this commission to lead in the discussion and proper consideration of it.

Second. It is possible that, as the commission advances its work and pursues its studies it may find it necessary to ask for a sort of immunity to business concerns in its advice to corporations desiring to do a legitimate and legal business. That has been thoroughly discussed already, but it is one of the subjects which must be considered. It is always easy for business men to ask for public authority for their protection or advancement, but it is not always easy to appreciate the proper checks and limitations which for the public interest must surround such authority. This will be a proper work for a high-grade commission.

Third. There must be considered a method of national incorporation. There have been many suggestions in the past made to Congress by different Presidents and by public organizations that one of the best ways of controlling interstate commerce will be by national incorporation of concerns doing business within our authority. We all realize the defects of present conditions and know that remedies should be provided. This is one which must be considered. The business of this country is principally interstate and foreign. Many of the existing evils could be cured if Congress should prescribe the corporate powers and limitations and conditions of the concerns allowed to transact this business. It is the logical and natural way to cure many of them by an administrative commission like this, and I am confident that this idea will grow steadily with the work of the commission in the eradication of corporate evils.

These are three classes of subjects which will be discussed and considered in all probability, and of course there are others which will arise from time to time and require the expert aid and recommendations of this commission.

JUDICIAL FUNCTION.

One of the most important and interesting phases of this work will be the judicial work of the commission. The gentleman from Maryland [Mr. COVINGTON] discussed this very clearly and fully, so nothing more need be said on that position; but I wish to add a thought from another standpoint. This commission in having power to enforce the law against unfair methods of competition approaches no new subject. It is one which has long engaged the courts, and its rules and limits seem well defined. Other nations and States have legislated with success on this subject, so that we are only following well-trodden paths. As I called to the attention of the gentleman from Maryland and the committee, the textbooks on unfair competition contain, I think, more than fifteen hundred cases defining and elaborating and explaining that subject. The courts are also piling them upon us in quantities every year. Those cases can be roughly divided into two great classes, one, the English cases, and, I think, many of the States consider the subject primarily from the view that it is the duty of the courts to so expound and apply the law as to encourage honest trading and dealing, and that whoever violates that general rule of honest and fair dealing can be reached in the courts, and whoever suffers from such ill-doing can have remedy in the courts.

That is the doctrine of a large number and class of cases. Another class of cases does not consider the public welfare as a primary object. It considers only the private right, where one person interferes with or injures another as to his person or property. In such case the injured person can have redress and in such case the public interest is secondary. That is apparently the doctrine in many of our States and in the Federal courts, as I have read the cases.

It should be borne in mind that this doctrine of unfair competition is only a branch of the general law of fraud. There is nothing novel about its ruling or principles. Nims, on unfair business competition, section 16, states:

GROUNDS OF THE ACTION FOR UNFAIR COMPETITION.

Fraud is a basis of actions for unfair competition. That has been demonstrated beyond a doubt by many cases. It is not so clear, however, just who it is the court aims to protect from fraud. An attempt to pass off goods fraudulently is discovered to the court. Is it set in motion by its abhorence of dishonesty and double dealing or does it feel called upon to protect the interests—his property—of the complainant or does it feel that it is its duty to first preserve the purchasing public from deception, or does it act in such a case because of all these reasons? The following are the principal grounds usually given:

First, that the court acts to promote honest and fair dealing; second, that the aim of the court is to protect the purchasing public; third, that the court aims to protect not public rights but the rights of individuals.

This bill only uses the same old doctrine that has been used for hundreds of years in the general law of fraud, and applies it under this definition to a class of practices or acts or conduct in commercial transactions in interstate or foreign commerce. The remedies for the violation are those daily used in the courts of equity. So that there is nothing new or startling when we realize that. The law of fraud has been worked out on both the law side and on the equity side of our courts, but necessarily in the decisions in equity have those two classes of cases been elaborated and defined, one considering the public standpoint as primary and the private rights as secondary and the other considering personal and individual rights as primary and the public rights as merely incidental. All that this bill does is to take that great mass of jurisprudence, with its definitions and limitations and rules and principles, and make it applicable by statute to the law of fraud affecting interstate commerce, with this jurisdictional qualification carefully stated in the bill, that the commission has no authority to act unless the methods of unfair competition shall injuriously affect the public interest. That must be the basis of its action and jurisdiction. In that way the commission will be freed from private quarrels and controversies. The gentleman from Maryland, Judge COVINGTON, kindly furnished me with authorities on this point, which I here insert:

In discussing the growth of the law of "unfair competition" the Encyclopedia of Law, volume 28, page 328, says:

"The law of unfair competition, including trade-marks and trade names, is of comparatively recent origin. The early cases fully recognized this doctrine, but as unfair competition by means of the imitation or infringement of trade-marks covered by far the most numerous class of cases presented, the courts fell into the practice of deciding all cases upon the doctrines of trade-mark law, and to a greater or less extent lost sight of the broader principles of unfair competition. * * * This law of trade-marks became specialized, and the law of unfair competition remained in abeyance, or, if recognized at all, was not recognized to its full extent or under that name, relief when afforded being "upon principles analogous to trade-marks." * * * The law of trade-marks, however, has been too thoroughly specialized and crystallized by statutes and decisions to become wholly merged in the law of unfair competition."

Nims on Unfair Business Competition, page 1, is as follows:

"In the digests one usually finds unfair-competition cases under the general head of trade-marks. This is misleading, for the law of trade-marks does not include unfair competition, but, rather, the law that governs trade-marks and infringements of them is but a part of the law regulating unfair and dishonest competition and trade.

"This misconception of the true meaning and scope of the doctrine of unfair competition may cause some to take issue with the writer on the correctness of including in a book bearing the title of Unfair Competition some of the classes of cases here included. It is believed, however, that the bar will be called upon more and more frequently to protect traders whose business is threatened with injury or destruction from many sorts of dishonest or unfair competition besides those arising out of trade-marks and trade names. Referring to the development of unfair-competition law, W. K. Townsend says: 'Not yet fully adopted by all the courts, still to be developed in its application to particular circumstances and conditions, this broad principle of business integrity and common justice is the product and the triumph of the development of the law of trade-marks in the last half century and the bulwark which makes possible and protects the world-wide business reputations common and growing more common in this new country.'

"Unfair competition is not confined to acts directed against the owners of trade-marks or trade names, but exists wherever unfair means are used in trade rivalry. Equity looks not at what business the parties before the court are engaged in, but at the honesty or dishonesty of their acts. It is unfair to pass off one's goods as those of another person; it is unfair to imitate a rival's trade name or label; but he who seeks to win trade by fair means or foul is not limited to these methods. He may copy and imitate the actual goods made or sold by a competitor; he may libel or slander these goods, make fraudulent use of a family name, of trade secrets, or corporate names, of signs, of threats of action; he may construct buildings which are reproductions of peculiar buildings of a rival, thus producing confusion in the minds of purchasers, which enables him to purloin his rival's trade, and in a hundred other unfair ways secure another's trade. All acts done in business competition are either fair or fraudulent, equitable or inequitable, whether they relate to marks or not; and it is believed that the question of trade-marks will soon be lost sight of in discussing unfair competition, in the problem of securing, through the principles of equity, full protection to every merchant against unfair business methods."

And farther on in his work the same author (Nims on Unfair Business Competition, p. 385) says:

"There are many ways other than by interference with contract, of harassing, interfering with, and obstructing a competitor in such a manner as to amount to unfair competition in the broadest sense of the term."

In support of that proposition cases are cited as follows:

In Sperry & Hutchinson Co. *v.* Louis Weber Co. (161 Fed. Rep., 219) the complainant was held entitled to an injunction to prevent defendant from interfering with its business of issuing trading stamps by inducing the violation of contracts with it.

In Evenson *v.* Spaulding (150 Fed. Rep., 517) Spaulding manufactured buggies and wagons in Iowa and sold them, through itinerant salesmen, to farmers and others in the State of Washington. An association of hardware dealers in the State of Washington employed agents to follow Spaulding's salesmen, to interrupt their conversations with farmers and dissuade the latter by false statements and otherwise from buying Spaulding's goods, and in various ways to intimidate and interfere with the salesmen. This was held an unwarranted attempt to destroy complainant's business and an injunction was granted.

In Standard Oil Co. *v.* Doyle (118 Ky., 662) an injunction was issued against the Standard Oil Co. under these circumstances. Its agents attempted to ruin the business of Doyle by making false representations to his customers and by threats and intimidations. It also harassed his employees by following and interfering with them and offering his customers oil a' a lower rate o. for nothing.

In Commercial Acetylene Co. *v.* Avery Portable Lighting Co. (152 Fed. Rep., 642) the bringing of a multiplicity of suits, started not in good faith, but for the purpose of deterring the public from purchasing from a rival and of ruining his trade, was enjoined.

In the case of the Standard Oil Co. *v.* United States (221 U. S.) the Supreme Court used this language:

"Without attempting to follow the elaborate averments on these subjects spread over 57 pages of the printed record, it suffices to say that such averments may properly be grouped under the following heads: * * * unfair practices against competing pipe lines; * * * unfair methods of competition, such as local price-cutting at the points where necessary to suppress competition."

In United States *v.* Patterson (205 Fed. Rep., 292) there was an indictment of officers of the National Cash Register Co. for violation of the Sherman Antitrust Act. The indictment set out 11 methods of unfair competition. The defendants claimed that the alleged unlawful acts were committed against infringers of patents owned by the National Cash Register Co., and were therefore lawful. The court denied this claim, holding that a patentee for the protection of his rights under the patent is limited to the pursuit of his legal remedies in the Federal courts. The court, Hollister, judge, said, at page 300:

"The doctrine asserted in this case for the first time, that the rights of the patentee are of such character that those operating under them may agree, in order to protect them, to engage in acts of unlawful competition such as are charted in this case, and even to burn their competitor's factory or destroy the competing—as they believe, infringing—machines by violence * * * I am unable to agree with.

"Aside from that one instance, however, there has been no evidence tending to show actual violence to a competitor's cash register in the possession of one of its customers. Therefore the argument of counsel for defendants goes further, with that one exception, than the acts of unfair competition the evidence for the Government tends to prove. But the principle is the same, whether the acts of unfair competition were acts of violence upon competitor's cash registers themselves or acts falling short of actual violence."

In United States *v.* American Tobacco Co. (221 U. S., 106), in the argument for the United States, the Attorney General [Wickersham], and Mr. James C. McReynolds, we find, at page 122:

"Moreover, if important, the evidence clearly establishes that the defendants' actions have been characterized by duress and unfair and oppressive methods."

In the same case in the lower court, United States *v.* American Tobacco Co. (164 Fed. Rep., 702), in opinion of Lacombe, J.:

"There is an absence of persuasive evidence that by unfair competition or improper practices independent dealers have been dragooned into giving up their individual enterprises and selling out to the principal defendant."

In the very recent case of the United States against International Harvester Co., in the United States district court for Minnesota, decided August 2 last, and to which I have already referred, Judge Walter I. Smith said:

"While the evidence shows some instances of attempted oppression of the American trade by the International and the American companies, such cases are sporadic, and in general their treatment of their smaller competitors has been fair and just, and if the International and American companies were not in themselves unlawful, there is nothing in the history of the expanding of the lines of manufacture, so as to make an all-the-year-around business, that could be condemned."

Judge Hook, concurring, said:

"In the main the business conduct of the company toward its competitor has been honorable, clean, and fair."

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. COOPER. Does the gentleman say that there can be no such thing as unfair competition in the absence of fraud?

Mr. STEVENS of Minnesota. Yes; I think the books lay down the doctrine that fraud in some form is the basis and essence of unfair competition; and this is only one of the branches of the general doctrine of fraud. Of course, the gentleman must understand that this bill makes such apply only to the public interest and not to personal or private interests.

Mr. COOPER. Suppose a corporation worth $100,000,000 should advertise that it would sell and that it does actually sell its product to one consumer in a certain town for 50 cents, and should advertise that it would not sell and does refuse to sell to any other in that town or in that State for less than $1?

Mr. STEVENS of Minnesota. That is clearly fraud.

Mr. COOPER. In what way is it fraudulent? I do not understand there is any fraud about that. It is the public advertisement of a legitimate business which can not be rendered illegitimate or fraudulent except by statute.

Mr. STEVENS of Minnesota. I think the gentleman erred in this particular. Of course no man can have action at law on such a subject unless he can show a specific damage calculable, and unless it was founded on some statute. But such an act might have a result to greatly injure the public by interfering and destroying competition, which the public needs, and that is the purpose of such discrimination. To that extent the injury and intent and result would be a fraud upon the public, now known to the law and under the jurisdiction of this bill.

Mr. COOPER. Precisely.

Mr. STEVENS of Minnesota. I presume that is true; and that will be a sample of a class which will be presented, and such a state of facts must be met by the commission.

Mr. COVINGTON. If I may be permitted to make a suggestion to the gentleman in reference to a definition of fraud used in one of the English cases, I think. There may be a fraud on the public that does not contain any element of the law of fraud but related merely to controversies between private individuals; but in so far as this may constitute an oppression, as it were, upon the public ultimately or drive out of business that individual and one means of competition, it is in effect perpetrating a fraud upon the public.

Mr. STEVENS of Minnesota. That was the thought I was pursuing. The foundation of the power of this commission to act in this class of cases must be an act which must injuriously affect the public interests. That is the basis of its jurisdiction. Already that has been the doctrine in a large number of cases, and that doctrine was adopted in the framing of this bill and is already in use in many States and in England, and I think in France, Germany, and in the Australian courts. The ground may not be personal, may be constructive, but it consists in doing an act to accomplish a result which ought not to be allowed. It is the combination of act, intent, and result which together may make a legal ground. Thus it is that we provide that where the act or a series of acts injuriously affect the public interests, then this commission is given authority to interfere on behalf of the public, and on behalf of the public only, and that of course would cover the case cited by the gentleman. The proceeding must not concern any injured individual; he must care for himself, exactly as he now does; but on behalf of the public in cases like that the commission may order the offender to cease and desist from that sort of practice.

Mr. COOPER. My understanding always has been that fraud in a legal sense requires the element of deception.

Mr. STEVENS of Minnesota. No; I think not to the extent the gentleman seems to have in mind. But that element does exist in the case he described.

Mr. COOPER. I understand there is an element of deception in fraud. A man may be injured but not deceived or defrauded. I understand that a man can use what to-day are called legitimate business methods—methods acknowledged to be legitimate under existing law—and crush a competitor. These methods may constitute a system of cutthroat competition, but I do not know where there is fraud about them.

The SPEAKER. The time of the gentleman has again expired.

Mr. STEVENS of Minnesota. I would ask for five minutes more.

Mr. ADAMSON. Mr. Speaker, I yield the gentleman five minutes additional.

Mr. STEVENS of Minnesota. My impression is that the commission is created from this standpoint, and to meet this very situation by applying the well-known rules which will amply meet such a condition. If these acts injuriously affect public interests, then the commission can act to prevent such consummation and result. There must not be confounded the narrow view of the doctrine merely injuring an individual interest and the broad public doctrine which affects the general public. Fraud may not exist as to the individual and yet be clear as against the public. It is the public interest only which this bill affects. From that view the old rules and doctrines are entirely sufficient and the cases well apply. We here provide the machinery by executive and judicial organization to make the law protect the public interest. Now, the gentlemen defines fraud as merely an act of deception, substitution, or misrepresentation. That is the viewpoint taken by the second class of cases to which I referred, and it is the object of this legislation to have substituted for such rule an affirmative, broad power to the commission and the courts for the suppression of the particular act which may be unfair and fraudulent as against the public. So far as the courts are concerned in dealing with the public interest under this statute, the rules and definitions and limitations will apply to the purposes of this act. It is to be hoped that there will be gradually evolved a body of law and rules upon this subject which shall be comprehensive and wise and enlightening, and which, while amply protecting the general public and its interests, may at the same time encourage the struggling and worthy who seek to make a place for themselves in the commercial world, and be the basis for a higher standard and such a consistent and practical standard for our business that it shall lead the commerce of the earth.

This bill will thus help by information, encouragement, admonition, advice, and, if necessary, restraint. No power is lacking. But we believe that force should be the extreme resort. Thus this legislation will afford an opportunity to test the conflicting theories of fines, penalties, and repression under lawsuits and executive enforcement, such as this country has had for 25 years, as against the wise, experienced regulation by competent administrative body, and through the courts when necessary, provided in this bill. This procedure is simple, speedy, accessible to every citizen, and offers the opportunity to repress every evil practice.

UNFAIR METHODS.

We made a change in the definition of the Senate bill, and instead of using the words "unfair competition," which signify a general course of conduct, we prohibit all "unfair methods of competition." In this way that prohibition should attach to the particular act such as that to which the gentleman from Wisconsin alluded. That is the very reason we made this change, which has been so criticized, because we wanted to cover the specific act which would be unfair, while the course of conduct by itself might be fair. In that way we meet the public exigency in classes of cases like that we have discussed. We considered this would be far easier of understanding and enforcement, of fraud, and order for desisting.

Mr. MONTAGUE. Will the gentleman permit an interruption?

Mr. STEVENS of Minnesota. Certainly.

Mr. MONTAGUE. In the allusion just made to fraud, I would ask the gentleman if this distinction is not clear: There may be fraud where there is a fraudulent intent, in the first place. Secondly, there may be a fraud where the result is so injurious, whether intent exists or not, as to imply fraud? The jurisprudence of the country recognizes this distinction, I think.

Mr. STEVENS of Minnesota. I think in those classes of cases wherever the public interest is injuriously affected the commission has clearly the right to denounce it as a fraud, following the decisions the gentleman from Virginia has alluded to, and which I have placed in the RECORD from the gentleman from Maryland.

Mr. COOPER. Will the gentleman permit me again?

Mr. STEVENS of Minnesota. Certainly.

Mr. COOPER. Take this illustration. A corporation with a capital of $100,000,000 sells its product below cost throughout a certain county or perhaps an entire State, but does not increase the cost of the product to consumers in any other community or State. Is there any fraud about that?

Mr. STEVENS of Minnesota. Fraud must be——

Mr. COOPER. In that case the people of other States would buy it for the old price, while the people of one particular State would get it for less. There would be no fraud, no deception. The only persons injured would be the competitors doing the same kind of business.

Mr. STEVENS of Minnesota. Of course that is one of the matters that would be considered by the commission. It might be——

Mr. COOPER. Will the gentleman permit?

Mr. STEVENS of Minnesota. Let me answer that.

Mr. COOPER. To finish this. Has not the gentleman found that in the large department stores they have days in which they sell below cost and by this method practically wipe out small competitors?

Mr. SHERLEY. And, if the gentleman will permit, there is a lot of fraud there.

Mr. COOPER. The most prominent business houses in the United States do such things. I wondered whether this proposed law would meet that sort of competition in interstate traffic.

Mr. STEVENS of Minnesota. Mr. Speaker, our bill does meet the situation, in this way: Where there is a practice or a class of practices which has for its main purpose an injury to the public by eliminating competition which ought to exist in the public interest, in such cases it is a fraud on the public, both as to purpose and results. If it be for the public interest to preserve healthful competition, then it is our duty to provide the means for it. If it be merely a business incident or a practice which disposes of a class of goods which it is to the usual and customary advantage of the dealer to dispose of in order to make room for other goods, or to raise ready cash, or to avoid future loss, or what not, then it is not a fraud on the public. It has neither such a purpose nor result, and nobody can or should complain.

The essence of the practice must be ascertained by the commission. If the general purpose and the result of it will be to the detriment of the public by eliminating competition which

in the public interest ought to exist, or by injuring those who ought not to be injured, by driving out of business that which ought to be sustained and protected in the interest of the general public, then it is fraud against the public and ought to be repressed.

If the practice or sale does not accomplish those things, if it merely clears the stock of stale or unseasonable goods, to be replaced by others or to raise ready money on any such perfectly proper purposes in business, then it is not a fraud, but it is a benefit to the community and could not and should not be assailed either in the commission or the courts. This illustrates the very thing which this commission is created and given authority to do—to ascertain the facts, to find out what the motive and result of all of these practices and acts and transactions may be, to study their history and purposes and results, and then present and consider the matter in a legal way as well as in an economic way and order it to be stopped, if it be in the interest of the public to stop it and in the power of the court to relieve it. This illustrates the necessity for such a commission to protect the public by separating the sheep from the goats by means of its experience as well as its legal powers.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Minnesota yield to the gentleman from Illinois?

Mr. STEVENS of Minnesota. Yes; I yield to the gentleman.

Mr. MADDEN. Suppose a firm had been continuously selling its goods for a lower price in order to make room for other goods?

Mr. STEVENS of Minnesota. If it were a continuous performance, and carried on with a view to eliminating competition, to the detriment of the public, which ought to exist, of course it is a fraud. If it be merely for an ordinary business purpose, it is as innocent as any other act. The various circumstances connected with the course of conduct must determine the validity, just as they do now.

Mr. SCOTT. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER. Does the gentleman from Minnesota yield to the gentleman from Iowa?

Mr. STEVENS of Minnesota. Yes.

Mr. SCOTT. I wanted to ask the gentleman where, in his opinion, the ultimate discretion rests under this bill to determine when a given set of business acts constitutes an unfair method?

Mr. STEVENS of Minnesota. In the first place, it must be an injury to the public. Now, that is well defined. On that we have our minds well made up. Opinions differ, of course, but there are many cases and many rules of law and many statutes based upon that phrase as to what constitutes an injury to the public. But the legal meaning of that phrase is clear and well understood.

Now, having that in mind as to what must be done to the injury to the public, and then following the decisions—and I stated that there are more than 1,500 of them that have been called to my attention—the courts have defined what would constitute unfair acts and oppressive acts affecting individuals. But when those oppressive and unfair acts are brought to the attention of the commission and they are found to injuriously affect the public, that constitutes an unfair method of competition.

Mr. SCOTT. I do not think the gentleman understood my question. My question was as to a matter of jurisdiction. What body ultimately determines whether a given set of acts is unfair or not?

Mr. STEVENS of Minnesota. The United States Supreme Court, of course.

Mr. SCOTT. Then under this bill the Federal trade commission does not have so broad a discretion as the Interstate Commerce Commission has to determine whether or not a rate is unreasonable or just?

Mr. STEVENS of Minnesota. Yes; to that extent it has, because it decides whether or not an act is an unfair method of competition. But to that extent it has a similar jurisdiction to that of the Interstate Commerce Commission, but it has not one step beyond such a power which the Interstate Commerce Commission has in its authority to prescribe for future action. I do not wish to interfere with my friend, but I am very anxious to proceed.

Mr. SCOTT. It seems to me this clause of the bill relating to the review by the courts means that discretion is given to the courts to nullify and set aside and absolutely rescind the order made by the trade commission.

Mr. STEVENS of Minnesota. Oh, certainly; if the courts shall be of the opinion that the decision of the commission is wrong as a matter of law. We can not take that power away from the courts, and would not if we could.

Mr. SCOTT. And that goes to the conclusion drawn by the commission as to whether or not a given state of facts is unfair?

Mr. STEVENS of Minnesota. Yes; the gentleman is right as to that.

Mr. SCOTT. Under the interstate-commerce law the courts will not review the question as to whether or not a given state of facts constitutes an unreasonable or an unjust practice.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. STEVENS of Minnesota. I would like to be allowed about three minutes in which to answer my friend from Iowa.

Mr. ADAMSON. Mr. Speaker, I yield five minutes more to the gentleman.

The SPEAKER. The gentleman from Minnesota [Mr. STEVENS] is recognized for five minutes.

Mr. STEVENS of Minnesota. The gentleman is correct as to part of his statement but incorrect as to another part of it. The Supreme Court has held that the Interstate Commerce Commission does exercise the right of determining whether a rate in existence is unreasonable or unjust. That is a quasi-judicial act and the decision of the commission on that point is reviewable by the courts, because it is a review of a legal decision upon a given state of facts. But when the commission goes further and decides what must be a reasonable rate on practice for the future, of course that is a legislative act which must not and can not be reviewed by the courts any more than could an act of Congress be so reviewed. There is that distinction, and we have carried that distinction into this bill. Whenever the trade commission decides that a certain act is an act of unfair method of competition, the decision on that point as a question of law is, and ought to be, reviewable by the courts. The facts themselves are found by the commission. Its finding as to the facts is conclusive. Its opinion as to whether that state of facts constitutes an act violating the law is its judgment of law upon the facts, and its judgment is and ought to be reviewed, and it is so provided by this bill.

Mr. SHERLEY. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Minnesota yield to the gentleman from Kentucky?

Mr. STEVENS of Minnesota. I do.

Mr. SHERLEY. If the gentleman will permit, the Federal trade commission differs from the Interstate Commerce Commission in that it has no affirmative power to say what shall be done in the future?

Mr. STEVENS of Minnesota. Certainly.

Mr. SHERLEY. In other words, it exercises in no sense a legislative function such as is exercised by the Interstate Commerce Commission?

Mr. STEVENS of Minnesota. Yes. The gentleman is entirely right. We desired clearly to exclude that authority from the power of the commission. We did not know as we could grant it anyway. But the time has not arrived to consider or discuss such a question.

Mr. Speaker, this commission has a general twofold function which will be gradually worked out in the course of time. One phase will be economic and the other will be legal. In the economic field the commission should assist the business concerns of this country along the lines demanded by the American people of efficiency and fairness. By that there can be ascertained the best possible size of business unit to accomplish a necessary business result. The people will not be afraid of mere size if it knows that an able and wise and powerful and patriotic commission is guarding their interests and that such a concern of such size and power is necessary properly to perform the gigantic tasks which we all believe must fall to the lot of our people and business men to do in this world in the immediate future. Whatever is most efficient and best calculated best to accomplish the needed result must be done, and our people will depend on this commission to guard and enlighten us.

Then, while it is done, the public also wants to know that with this efficiency will equally go fairness in the distribution of the benefits of such organization and work. Of course, the commission has no direct power to allot benefits. These must be evolved by the friction and process of personal care and bargain. But it can greatly assist in bringing about a proper spirit, and information, and cooperation, and possibly admonition to accomplish the desired results. I know this may seem idealistic, but yet some part of it may be worked out through this creation.

As to the legal side. I have already stated that it is to be hoped that a body of commercial rules may be evolved which may be a safe and wise guidance on the high plane for the busi-

ness concerns of the country. They should not be technical merely, but, amplified with breadth and experience, may be safely accepted as the best expression of the business world.

This measure, for the first time in this country, attempts an administrative regulation of commerce itself. We have regulated the instrumentalities such as transportation and finance, but here we attempt to rule and help commerce. An executive alone with power of enforcement merely, or even a wise discretion, could not do it. The courts under their ruling could not wisely and liberally accomplish the needed results. The legislative branch can only prescribe rules for the future. It requires a combination of all of those powers in one organization, with the highest obtainable talent well and thoroughly to work out the difficult problems which will be met. Because it is in a sense permanent and without partisanship, and can lay down a policy which can be pursued or changed as may be wise and necessary, without the charge of personal or political advantage, must this important commission perform such work.

But before closing, without intending to throw any bouquets, I think two things should be understood by this House. One is that there has been a sort of an imputation against this House that we swallow any old ready-made and hand-me-down bill without consideration, and that this House does not consider bills as thoroughly as does the body at the other end of the Capitol. This bill, as I said when the bill was before the House originally, was framed by the Committee on Interstate and Foreign Commerce. It was not a hand-me-down product. We did it ourselves, for better or for worse. [Applause.] This measure as it is now presented to you was framed by the conferees. Whatever may be its merits or its demerits, we are responsible for it exactly as it stands, and I am rather proud of what we have done.

We have been criticized in the press because this House does not debate exhaustively the great matters which have come before Congress during this session and the previous session. That we merely pass these great bills in a perfunctory way without real consideration and enlightenment. Such a criticism is unjust and untrue when the situation is realized.

The House will remember that practically all the great measures which have passed during this Congress have originated in the House. It has been our duty to consider these measures first before the Senate could act, and we have done it as best we could, and, I think, on the whole very well. Sometimes our debates have been too much repressed and not sufficient time has been given to them, and there has often been a lack of sufficient time for real discussion of some of these great measures. But we have discussed them with some thoroughness, and our discussion has been the basis of debate elsewhere. Everyone knows that the principal work of the House is in its committees and not on the floor. There are the real debates and there are the real legislative contests. The perfected measure too often does not receive as thorough consideration on this floor as in the Senate. But that is not because it is not as well prepared or understood. We all know that it is a mighty sight easier to take a bill which somebody else has prepared, to have before you a debate and report and hearings that somebody else has already placed in the RECORD, and then amplify or change it. We have been obliged to have the laboring oar upon all these great matters, and the press of the country does not seem to realize the great service which the House has performed in this Congress in discussing these great matters before anybody else has seemed to know they were in existence. [Applause.]

Just one suggestion more: In all matters of constructive legislation necessarily some Member of the legislative body must assume the great burden of doing the principal part of the work in preparing it and presenting it to the committees and to the House. This is a great constructive legislative measure, creating a department of our Government which may be of great service to our people in the future. Perhaps it embodies no new principle, but it applies old principles to new methods and new practices in legislation upon a tremendously important field of national activity This has required constructive legislative ability of a very high order, and in the closing days of the service of one of our associates, who is entitled to the chief credit there may be for this measure, I am glad to bear witness before this House to the industry, the great ability, the high character, the rectitude of purpose, the entire sincerity, and the splendid analytical, mental, and legal ability of my colleague, Judge COVINGTON, who now leaves us for another sphere of public usefulness. [Applause.] It must be a great source of satisfaction to him as he retires from legislative activity to know that he carries with him the sincere respect and the deep affection of those with whom he has been associated, and that this measure will be the crowning act of a splendid legislative career which we who have worked with him believe will be not only a monument to him but of great benefit in the future of our common country. [Applause.]

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent that all gentlemen who address the Chair during this debate may extend and revise their remarks.

The SPEAKER. The gentleman from Georgia asks unanimous consent that all gentlemen who speak on this conference report may have five legislative days in which to extend remarks on the bill. Is there objection?

There was no objection.

Mr. ADAMSON. I yield to the gentleman from Illinois [Mr. MANN] such part of 15 minutes as he desires to use.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is recognized for 15 minutes.

Mr. MANN. Mr. Speaker, I enjoyed very much the remarks of the gentleman from Minnesota [Mr. STEVENS], and I wish to join with him in congratulations to the gentleman from Maryland, Judge COVINGTON, as well as the gentleman from Georgia [Mr. ADAMSON] and the other majority members of the Committee on Interstate and Foreign Commerce. Everyone in the House knows I have a peculiar personal affection for the Committee on Interstate and Foreign Commerce, which extends to all of its members; but in expressing these words of congratulation I do not wish Members to forget the great service in connection with this bill, as well as others, rendered by the minority members of that great committee. The gentleman from Minnesota [Mr. STEVENS], who enjoys the confidence, respect, and affection of every Member of this House [applause], has had great influence in the final development of this bill. And the gentleman from Wisconsin [Mr. ESCH], who was with him on the original subcommittee of the Committee on Interstate and Foreign Commerce and also on the conference committee, has rendered able service in this connection, as he has always rendered in the House in every direction. [Applause.]

Mr. Speaker, I think all the Members of the House will vote for this conference report. Doubtless it is not in the exact form in which other Members might have written it, but I think that, on the whole, the House has written this bill—Members on the House side have written the bill—and I believe it will prove to be one of the steps in legislative development which we have well taken. [Applause.]

Some years ago, while I was a member of the Committee on Interstate and Foreign Commerce, Col. Hepburn, then the chairman of that committee, directed me to take charge of the bill to create the Department of Commerce, or, as it was then called, Commerce and Labor.

In making a report to the House on that bill we proposed three new bureaus. One was the Bureau of Manufactures, which was created, and which, I think, unfortunately was abolished recently by transferring it to another bureau. One was the Bureau of Insurance, which, I think, ought to have been created, but which my Democratic friends in the House were opposed to at the time, and they had the support of enough Republicans to eliminate it. One was the Bureau of Corporations. That was first proposed to go into the bill by myself. I wrote the provision in regard to it just before the holidays, in 1902. It was agreed to by the committee, and I was directed to report the bill to the House. During the holidays I prepared the report on the bill, which was submitted immediately after the holidays, in January, 1903. After I had prepared the report upon this bill the President, Mr. Roosevelt, sent for me, knowing that I had charge of the bill, and said to me that he thought we ought to give to the Interstate Commerce Commission jurisdiction over the corporations of the country doing an interstate-commerce business, somewhat similar to the jurisdiction which the Interstate Commerce Commission then exercised over interstate carriers. I said to the President that I had already drawn a report upon the bill creating a Department of Commerce and Labor which carried a Bureau of Corporations and a Commissioner of Corporations, and that I myself did not believe that the Interstate Commerce Commission, with its great amount of work, was the proper body to take charge of matters relating to the other corporations of the country. In a way the present conference report justifies the expression of opinion then expressed by President Roosevelt, and I am happy to congratulate myself by saying that in a way it justifies the position which I then took.

In making a report upon the bill creating this new bureau in 1902, I said:

The creation of this bureau will make it the duty of an officer of the Government to deal with the matter of corporation information and to acquire knowledge and report on conditions concerning the manner and extent to which corporations transacting interstate commerce shall be subjected to the influence of national legislation. Your committee believes that this is a practical step toward the legitimate control of corporations engaging in commerce among the States. Your committee has not recommended any extended or specific legislation in

regard to the character of the information to be obtained or the manner of obtaining it, but has left that matter to await further legislation.

In my judgment then, and in my judgment now, Congress was not sufficiently informed to take the step which it is proposed to take now for the control of interstate corporations. But even the present step is only one step forward; there will be others to take. We can not afford to destroy business. We can not afford not to exercise some control over business. I think the Committee on Interstate and Foreign Commerce in its pending report has acted wisely in not endeavoring to go too far or too rapidly, but has also acted wisely in going further than we have ever gone before.

"Unfair methods of competition" excite considerable contention. The Senate's suggestion was "unfair competition." I can see quite a distinction between unfair competition and unfair methods of competition, but no one can write a definition of either. If it were possible for us to define unfair competition or unfair methods of competition, we would put the definition into substantive law.

What does this proposition mean. We leave to a commission created supposedly of men of at least more than the ordinary common sense and discretion the power to direct that the corporations shall cease the practice of certain methods of competition which the commission think are unfair. The corporation is not required then to cease; it can take the matter into court. Either the commission can file a suit in court for the enforcement of its order or the corporation can file the suit in court. It will be left to the courts to lay down the lines and the law which determine what are unfair methods of competition. The finding of the commission as to the facts is to be taken as conclusive, but the conclusions of the commission must be determined in the end by the courts of the land.

It is true that a bill like this will lead to some uncertainty as to what corporations or individuals can do. That always follows any legislation. Those who desire to reach across the line between unfair and fair methods of competition or to go up to the line will sometimes find that they have crossed over too far, and they will be pulled up. But we are moving in the direction of controlling the methods of competition, endeavoring to keep upon the lines of competition so that everyone will have a fair show. [Applause.] I am satisfied that we are making quite a step.

I had wished that when the commission had acted and had found that a corporation was following a fair and not an unfair method of competition, that the corporation or individual might be allowed to proceed with his business without fear of prosecution under the Sherman antitrust law. I think when we give a commission power to say that a man is doing business fairly we ought to encourage him to do the business, without holding a threat over him that some subsequent administration may find it necessary to prosecute him for doing the thing which our commission said was proper to do. Yet I realize the political difficulties in the way of making any change in the Sherman antitrust law.

It may be making somewhat a dissent in the consideration of matters, but there is one thing I do not wish to pass entirely without notice. Just for the RECORD I want to state that in section 5 there are two places where a comma is inserted which entirely changes the meaning of the section, but I take it that it was done inadvertently and that the commission will, in scanning the law, forget that the comma is in there. There is this provision:

> The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks—
>
> Comma—
>
> and common carriers subject to the acts to regulate commerce, from using unfair methods of competition in commerce.

A similar provision occurs in another place. As it reads and as it is punctuated it gives the commission power over corporations that it was intended to exclude.

There is another provision in the bill, and I am not sure whether it was referred to by the gentleman from Kentucky or not, but in one place, section 5, exclusive jurisdiction to enforce the orders of the commission is given to the court of appeals, while in section 9 jurisdiction to enforce compliance with the orders of the commission is given to the United States district courts. The two provisions are in apparent conflict. It is easy to see how it arose, and possibly that will affect the construction given it by the court. The provision giving the district courts power by a mandamus was in the bill as it passed the House. The bill did not then contain section 5, concerning unfair competition. When section 5 was written into the bill by the conferees they desired apparently to give the court of appeals rather than the district courts jurisdiction over these cases which came under the unfair-competition section. It is possible that the courts may construe it, and, on the other hand, it may require an amendment in the future. But that is easily made and does not affect the merits of the proposition, and I think is not the fault of anyone.

I again congratulate the members of the Committee on Interstate and Foreign Commerce and its distinguished chairman, with whom I served so many years, upon the successful outcome of this legislation. I would like to say to our Democratic friends that here is a bill which from the start was made devoid of partisan politics. On our side we were called into consultation, and I think the majority would say that that consultation was helpful. Of course in a way you were entitled to and will claim the political benefit throughout the country, but when it comes to the real substance of legislation along lines which are and ought to be nonpolitical we are just as anxious to do the right thing on our side of the House as you are on your side, and we do not desire to hinder you from having credit for being yourselves anxious to do the right thing. I hope and think we are doing the right thing now. [Applause.]

Mr. BURKE of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. BURKE of Pennsylvania. The gentleman stated that he has a very clear and well-defined idea of the difference between unfair competition and unfair methods of competition, and for the purposes of this record I wish the gentleman would consent to give one illustration for the benefit of those who later on will be called upon to construe this law.

Mr. MANN. I think I had better not. I have very clear and well-defined notions on the subject, but it would take a longer time than I have at my disposal to go into it.

Mr. ADAMSON. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, I do not want the Members of the House to think that I am going to try to go over what has been so clearly and ably said about this bill by the gentleman from Maryland [Mr. COVINGTON], and by the gentleman from Minnesota [Mr. STEVENS]. It would be utterly useless to do so; but by way of reference to what the gentleman from Illinois [Mr. MANN] has just said, respecting party benefit or injury and party responsibility, I desire to say, because it is a fact, that the Democratic members of the subcommittee—and I happen to be second upon that committee—during the entire consideration of this bill never met nor attempted to do anything without the Republican members of the subcommittee were present and participated [applause], and that the Democratic members of the conference committee never held any kind of a meeting nor discussed any measure or part of this bill unless the Republican members of both the House and the Senate were present. I am glad to confirm what the gentleman from Illinois has said, that, so far as the House Committee on Interstate and Foreign Commerce is concerned, and also the conferees who acted in this matter, we have acted wholly in reference to what we thought was for the general welfare of the country. I for one do not believe that a good idea is bad because advanced by a Republican, or that a bad idea is good because advanced by a Democrat. I hope what the gentleman from Illinois has said will take place, and that is that not a single vote will be given against the adoption of this report.

Mr. Speaker, I like the gentleman from Minnesota [Mr. STEVENS], regret that this House is to lose the further services of the distinguished gentleman from Maryland [Mr. COVINGTON], and I know every Member who heard his speech here to-day will know that the President made no mistake when he selected so able a lawyer to be the chief justice of the Supreme Court of the District of Columbia as is the gentleman from Maryland. [Applause.] He may have made other mistakes and he may make yet others, but I am convinced that every gentleman who heard him to-day will agree with me that he made no mistake in this case.

I wish to refer to but one matter in the conference report, because it has been so well discussed and so clearly presented that it is a waste of time to repeat it; that is, with reference to that portion of the report which provides that the findings of fact by the commission shall be conclusive upon the court if supported by testimony. The Senate provision seemed to me to leave this somewhat ambiguous—not very clear—and I think that it is a bad practice, if the power exists, for a court, and especially an appellate court, to undertake to substitute its judgment for the judgment of an administrative commission, and to substitute the judgment of a court, and especially an appellate court, for that of a commission composed of men selected for their expert qualifications and special capacity on questions of fact seemed to me to be unwise, not good legislation, and

that it would fill the courts with cases and practically block and hamper the circuit court of appeals in performing the duties for which it was created. I think the conference report is a great improvement in that respect upon the bill as it passed the Senate.

I want to say something for our chairman in this connection, and I know how to feel for him. The duties of a conferee are personal; they can not be transferred to a substitute. A conferee can not pair with another conferee, but must in person perform his duties. When this bill was expected to come from the Senate any minute and have to go to conference, it developed that the gentleman from Georgia [Mr. ADAMSON], the distinguished chairman of our committee, was to have opposition for the nomination in his district. That came as a shock and surprise to the Members of this House, and especially to the members of his committee; but, great as was the temptation to leave and go home to look after his fences personally, he said no; that his duty required him to remain here; that at any moment this trade commission bill might come over from the Senate, and that he would have to be, as a matter of course, one of the conferees, and he would take his chances in remaining at the post of duty; and I am very glad to say that the people in his district in Georgia took the same view that he did—that as a Member of Congress he had duties to perform here that were higher and more important than shaking hands with his constituents and making a personal appeal for their further support and confidence. [Applause.]

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. SIMS. Mr. Speaker, I did intend to throw another bouquet or two, but I know the time is short and will heed the fall of the Speaker's gavel and say no more.

Mr. ADAMSON. Mr. Speaker, I have several applications for time, and I do not see how I can execute my contract without 10 more minutes.

The SPEAKER. The gentleman from Georgia asks unanimous consent that his time be extended for 10 minutes. Is there objection?

There was no objection.

Mr. ADAMSON. Mr. Speaker, I was temporarily out of the Chamber when the time was yielded to the gentleman from Minnesota [Mr. STEVENS], and in granting time to him I intended to avail myself of the opportunity to say a word in recognition of the distinguished services of the members of the minority upon this committee. I wish now to say, in yielding to the gentleman from Wisconsin [Mr. ESCH], that the members of the committee sitting on the other side of the Chamber cooperated with us in full. They did their full duty. They are good and true Americans and great and good Congressmen. We have no partisanship upon that committee. We are all patriots and statesmen alike. [Applause.] I yield five minutes to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Speaker, I had not contemplated making any address upon this conference report. I indorse all of the kind words uttered this afternoon with respect to the different members of the committee, save those referring to myself. I believe we have presented to the House and to the committee a great, constructive measure, one which occupies a new field, the ultimate effects of which time alone can make manifest. We feel confident, however, that as this law is administered larger and better information will be gathered to guide subsequent Congresses. If there is one thing in the bill which appeals to me more strongly than another, it is the power granted in section 5. When the bill was in the House there was some misgiving that it did not have any teeth. Section 5 gives to this commission great power in regulating great businesses in the United States. In so far as section 5 shall be carefully and wisely carried out, to that extent will the Federal trade commission be successful and meet the expectations of the people. I hope that subsequent Congresses, with the wisdom which this commission may make available, may strengthen this bill to the end that it may be beneficent. [Applause.]

Mr. ADAMSON. Mr. Speaker, I yield five minutes to the gentleman from New Hampshire [Mr. STEVENS].

Mr. STEVENS of New Hampshire. Mr. Speaker, this trade commission bill will do three things of importance and benefit to the American people. First it will gather for the use of future Congresses more accurate and complete information about the big business interests of the country. Secondly, it will give to the Department of Justice in the enforcement of the antitrust law the benefit of its investigations and its more expert knowledge of business conditions. Last, and to my mind the most important one, it will give to this commission the power of preventing in their conception and in their beginning some of these unfair processes in competition which have been the chief sources of monopoly. That part of the bill is practically new, and yet it has grown out of experience with other legislation In the enforcement of the Sherman antitrust law it has been disclosed in practically every case which the Government has brought against the big combinations, the Standard Oil case, the Tobacco case, the Thread case, the Bathtub case, that the chief means of destroying competition by big combinations was by the use of methods which were distinctly unfair and oppressive. Those combinations can be dealt with by the Federal courts in the enforcement of the Sherman antitrust law. They can be dissolved, and in practically every recent case the Federal courts have added to the writ of dissolution specific injunctions against the use in the future of those methods which have been used in that particular business. What we wish to do and ought to do above everything else is to prevent the growth of monopoly at the beginning. Private monopoly in this country must be based upon either one of two factors: It must be based upon the possession of certain limited natural resources or it must be based upon the misuse of the power that goes with large business. Now, the Democratic Party is not, and I believe no party is, opposed to doing business in big units. The power to carry on business in large units means, to a certain extent, efficiency in cost, in selling methods, and better service and better goods for the public, but with a large organization, with the immense amount of capital which is at their disposal, with the large volume of business, there goes the power absolutely to drive out competitors by the use of unfair methods of competition. To my mind the most important part of this trade commission bill is that which grants to this commission the power, after investigation and hearing, to issue an order compelling any firm or person or corporation engaged in interstate business to cease from any unfair methods of competition.

There are only two ways by which government can regulate business. It may regulate business practices by specific prohibitions of law, leaving its enforcement to the criminal courts, or it can regulate big business corporations in the same way that the railroads are regulated—by the creation of a commission with a wide discretion and wide power in the application of the principles of the law. The chief argument against section 5 of this bill is made by those men who believe the best way to regulate business is the old-fashioned primitive way of defining certain offenses, leaving the application to the Department of Justice and the criminal courts. I think that the history of the enforcement of the Sherman antitrust law and the interstate-commerce law have proven conclusively that you can not regulate modern complicated business conditions by the criminal statutes and the criminal courts. I would remind those gentlemen who believe that that is the sole way to regulate business of this character that the Sherman antitrust law is also a criminal statute and any person who violates its provisions against restraint of trade or monopolies is guilty of a criminal offense and can be punished by fine and imprisonment. That law has been in force for 25 years. We have had during that time in the Department of Justice some of the most able and honest lawyers of this country of both parties. Suit after suit has been brought against large corporations and almost invariably the Federal Government has won the suit. Combination after combination has been declared a monopoly and in restraint of trade and yet the criminal provisions of the antitrust law have been of no avail and no use, and I know of no single malefactor of great wealth who has taken part in these combinations and in these restraints of trade who is languishing in jail to-day or lies under the liability of languishing in jail. The reason is that it is almost impossible with big complicated business conditions to fix the responsibility for any one act on any one individual in such a way as to get that man in the criminal courts and convict him.

The SPEAKER. The time of the gentleman has expired.

Mr. ADAMSON. Mr. Speaker, I yield to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MORGAN of Oklahoma. Mr. Speaker, I am not a member of this important committee, and hence I appreciate the privilege of speaking on this report. I am deeply interested in this measure, and I desire to congratulate the Democratic Members of this House and the Democratic administration upon enacting this great measure into law while they are in power.

Why am I especially interested in this bill? Because I have the honor—and I regard it as an honor—of having introduced in the House the first bill to create a Federal commission to control the industrial concerns of this country.

I hold in my hand a printed copy of the bill which I introduced in this House on the 25th day of January, 1912, more than two years and seven months ago. The bill contains 17

sections and covers 14 pages of printed matter. In the preparation of this bill I gave much hard study and many months of time such as I could spare from other duties. I had in my office for a long time scores of volumes of books from the Congressional Library covering every phase of the trust problem. I secured from these books as much general information as I could. I tried to comprehend and determine in my own mind what the trust problem was and what would be a practical method of dealing with it with a view, of course, to serving the best interests of the great masses of the people of this country, with a view also of promoting the greatest prosperity in business and the expansion of our industries and with a still further desire to add to the real strength, glory, and greatness of our country.

I reached the conclusion that there should be created a Federal commission with administrative duties and with limited judicial powers to supervise, regulate, and control the great business concerns of this country engaged in interstate commerce. I made careful study of the act which created the Interstate Commerce Commission and of the various amendments and supplementary acts thereto. I concluded that so far as applicable with proper modifications and supplementary provisions that the principles embodied in the interstate commerce act should apply to the laws which should be enacted with a view to regulating the industrial corporations.

Having fixed in my mind the outlines of the bill, I began to work at its preparation. I wrote and rewrote every section and line contained in the bill. Finally the bill was prepared and introduced, as I have already stated, on the 25th day of January, 1912.

I then proceeded to prepare a speech explaining the bill and advocating its adoption, which I delivered in the House of Representatives on the 20th day of February, 1912, and the speech is printed in the CONGRESSIONAL RECORD of that date. At that time no political party in its national platform had ever declared in favor of creating such a commission. But the Republican Party was the first to declare in favor thereof. At its convention, which convened at Chicago in June, 1912, its platform contained the following declaration:

> In the enforcement and administration of Federal laws governing interstate commerce and enterprises impressed with a public use engaged therein, there is much that may be committed to a Federal trade commission, thus placing in the hands of an administrative board many of the functions now necessarily exercised by the courts. This will promote promptness in the administration of the law and avoid delays and technicalities incident to court procedure.

In August following the Progressive Party followed the lead of the Republican national convention and placed in its platform a declaration as follows:

> We therefore demand a strong national regulation of interstate corporation. * * * To that end we urge the establishment of a strong Federal administrative commission of high standing, which shall maintain permanent supervision over industrial corporations engaged in interstate commerce.

The National Democratic Party has never in any of its platforms declared in favor of the creation of a Federal commission to have supervision and jurisdiction over concerns engaged in interstate business. However, President Wilson, speaking for his party early in this session of Congress, came before a joint session of both Houses and delivered a message in which he recommended the creation of such a commission. President Wilson has led a Democratic Congress along a line directly opposed to the traditional idea of the Democratic Party as to the extension and enlargement of Federal jurisdiction and power.

Now, Mr. Speaker, I am highly gratified that this great measure upon which we are about to take a final vote and which will soon be enacted into law is in many respects along the line which I tried to blaze out as best I could. [Applause.]

I wish to make a comparison between the prominent features and principal provisions in this bill No. 15613, and upon which we are about to vote, and the provisions of the bill which I first introduced on the subject in the Sixty-second Congress, H. R. 18711.

Here is a comparison between the essential provisions of H. R. 15613, as found in the report of the committee of conference, with the provisions of H. R. 18711, introduced by myself in the Sixty-second Congress, second session, on January 25, 1912:

The following are the essential features or provisions of H. R. 15613, as appears in the report of the conference committee:	The following are some of the essential features or provisions of H. R. 18711, introduced in the Sixty-second Congress by myself, January 25, 1912:
1. A Federal commission is created to supervise and regulate industrial concerns engaged in interstate commerce.	1. A Federal commission is created to supervise and regulate industrial concerns engaged in interstate commerce.
2. Merges Bureau of Corporations into the Federal commission.	2. Merges Bureau of Corporations into the Federal commission.
3. Prohibits in general terms unfair competition, but does not undertake to define what is unfair competition or to prohibit specific acts or practices constituting unfair competition.	3. Prohibits in general terms all unfair practices and methods which are unjust, unfair, or unreasonable, but does not undertake to define what are unfair practices or unfair methods in competition or to prohibit specific acts or practices which are unfair in competition.
4. Gives the commission authority and jurisdiction to hold hearings, make findings, and issue orders prohibiting industrial concerns from engaging in a practice which constitutes unfair competition.	4. Gives the commission authority and jurisdiction to hold hearings, make findings, and make orders prohibiting industrial concerns from engaging in a practice or from using methods which are unjust or unfair and which would constitute unfair competition.
5. Gives the United States court authority and jurisdiction to review, modify, or overrule orders of the commission.	5. Gives the United States court authority and jurisdiction to review, modify, or overrule orders of the commission.
6. Gives the commission authority to enforce its orders through proceedings in the United States court.	6. Gives the commission authority to enforce its orders through proceedings in the United States court.
7. Gives commission access to the books of industrial concerns engaged in commerce, to make investigations, to require reports, and, in general, to enforce the provisions of the act.	7. Gives commission access to the books of industrial concerns engaged in commerce, to make investigations, to require reports, and, in general, to enforce the provisions of the act.
8. Makes findings of the commission as to the facts, if supported by testimony, conclusive.	8. Makes findings of the commission as to the facts conclusive.

I do not wish to be misunderstood. House bill 18711, Sixty-second Congress, contains some very important provisions not in House bill 15613. I do not, of course, intimate that anyone has copied from my bill; but I simply desire to call the attention of the House to the fact in initiating a piece of constructive legislation admitted by all to be upon a most important subject, the bill which I presented contains all the essential features of the law that is to be placed upon the statute books, only after the committees of both Houses have held extensive hearings and every provision of the bill has been thoroughly discussed in both the Senate and the House. I myself desire to compliment the Committee on Interstate and Foreign Commerce. In all the mass of matter and ideas presented, they have presented a carefully prepared bill, free from objectionable provisions, and yet comprehensive, clear, and practicable.

On the 20th of February, 1912, I stood in this House in my modesty and made a speech advocating the creation of a Federal commission to regulate industrial concerns engaged in interstate commerce. I attracted no attention, of course. But there it is in the RECORD, showing that I was the first to advocate in this House the creation of a Federal trade commission. [Applause.]

In reciting the history of my efforts in favor of the creation of a Federal commission to regulate interstate industrial commerce I wish to quote a short paragraph or two from that speech delivered in the House on the 20th day of February, 1912. I said (see CONGRESSIONAL RECORD, Feb. 20, 1912):

> Let us keep the fire of competition burning brightly and brilliantly in every industry and in every section of our country; but should the flame of competition in any industry grow dim, or should it, under stress of monopolistic power, become extinct, let us not leave the people in darkness and despair.
>
> Let us create a great interstate corporation commission, clothe it with ample power and jurisdiction, and direct it to proceed forthwith to bring our gigantic industrial corporations into subjection. To guide these great business institutions in conducting their business let us proclaim by legislative enactment that their prices must be reasonable and just; that all must be given like privileges and advantages; and that the National Government will not tolerate practices or methods in business that are unfair, unjust, or unreasonable, or that are against public policy or dangerous to the public welfare.
>
> By so doing we will have promulgated a higher law for the guidance of our gigantic industrial corporations engaged in interstate commerce; we will have set in motion the governmental machinery that will be able to cope with these great corporations; and we will have put the people and the corporations upon a highway that will lead them to reconciliation and unite them in an effort to bring to our country a reign of industrial peace, which is essential to our industrial prosperity. [Applause.]

Since the introduction of my original bill on this subject in the Sixty-second Congress I have contributed in every way I could in securing the enactment of legislation along this line. On the convening of the Sixty-third Congress I reintroduced my bill. It was referred to the Judiciary Committee. When this committee decided to hold hearings on antitrust legislation I had the honor, notwithstanding the fact that I was a member of that committee myself, to make the first argument in those hearings in behalf of the bill which I had introduced. The printed hearings comprised about 2,000 pages, and on the first page of the first volume will be found the beginning of my remarks, and it so happened that on the last page of the second

volume will be found my minority report on the Clayton antitrust bill. Later the bills relating to a Federal trade commission were referred to the Committee on Interstate and Foreign Commerce. The committee did me the honor to listen for nearly two hours while I did the best I could to convey to the committee my ideas on proposed legislation for the regulation of our great business concerns. When the Federal trade commission bill came before the House I offered a number of amendments and advocated their adoption. While none of my amendments were adopted, I take pride in the fact that some of the ideas which I presented were incorporated in the bill as amended by the Senate and as further modified by the reports of the committee on conference as we have in the bill before the House to-day. In supporting one of the amendments which I presented I said:

The amendment is drawn on the idea that some place along the line Congress will prohibit in general terms unfair competition and unfair discrimination. Then, of course, unfair competition or unjust discrimination would be unlawful.

On examination of section 5 of the bill as presented by the conference report you will find that the language is in line with my suggestion, because the first sentence of section 5 is as follows:

That unfair methods of competition in commerce are hereby declared unlawful.

But this is not all. When the bill was under consideration before the House I offered a substitute for section 11 of the House bill. I wish to make a comparison between the amendment which I offered and part of section 5 of the bill now under consideration and which is soon to pass this House and become a part of the law of the land. The provisions of section 5 unquestionably constitutes the most important part of this bill. Here is a comparison between section 5 of H. R. 15613 as appears in report of committee of conference and the amendment offered by myself as shown on page 9842 of the CONGRESSIONAL RECORD of May 22, 1914:

Section 5 of H. R. 15613, as appears in conference report in part is as follows:

"Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least 30 days after the service of said complaint. * * * If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this act, it shall make a report in writing in which it shall state its findings as to the fact, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such methods of competition."

Substitute offered for section 11 of H. R. 15613 as shown by CONGRESSIONAL RECORD, page 9842, May 22, 1914. The RECORD in part shows as follows:

"Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

"The Clerk read as follows:

"'Mr. MORGAN of Oklahoma offers as a substitute for section 11, on page 9, the following:

"'"SEC. 11. That when in the course of any investigation or through any other reliable source the commission shall obtain information that any corporation subject to the provisions of section 9 of this act, in conducting its business, is using any unfair competition or practice, the said corporation shall be cited to appear before said commission and a hearing shall be had thereon. If the commission shall find that the said corporation is or has been engaged in unfair competition or practice, it shall make an order commanding the said corporation to cease engaging in said unfair competition or practice * * *."'"

The measure does not go so far as I think it should. The bill which I introduced goes much further; but as time goes on, as we shall develop business along this line, you will find that from time to time Congress will give this great commission additional power, not to harass, not to destroy the business of this country, but to give the business of this country real liberty and freedom and to indicate to business the lines which it shall follow and along which it can proceed.

In my judgment not in half a century has the Congress of the United States enacted a law that is of equal importance to the one we are now enacting. [Applause.]

The SPEAKER. The time of the gentleman from Oklahoma has expired.

Mr. ADAMSON. Mr. Speaker, I yield to the gentleman from Oregon [Mr. LAFFERTY].

The SPEAKER. The gentleman from Oregon [Mr. LAFFERTY] is recognized.

[Mr. LAFFERTY addressed the House. See Appendix.]

Mr. ADAMSON. Mr. Speaker, I yield to the gentleman from Iowa [Mr. TOWNER].

The SPEAKER. The gentleman from Iowa [Mr. TOWNER] is recognized.

Mr. TOWNER. Mr. Speaker, I sincerely hope that this conference report will be unanimously adopted. The bill as it is now before the House is a better bill than at any previous stage of its passage through the House and Senate. The House bill was greatly improved, as I think, in the Senate, and I am quite sure that the bill as it left the Senate was greatly improved in conference.

I am very glad personally that some of the amendments that I urged on the floor of the House have been adopted and are now contained in the bill. Several of them of some importance have been ingrafted and are now in the bill. I shall not take the time now to refer to them, because that would be self-gratulation. I am very glad, indeed, at this time to give credit to all of those who have taken part in this great act of constructive legislation.

Mr. Speaker, there are two very significant facts that are made very strongly evident in the present status of this bill which I think the House would do well to take to heart. The first one of these is that it is best for the House, best for the country, best for the interests of any party that may be in control of the administration that there shall be in the formulation of great constructive acts of this character the full and complete concurrence and aid of all of the membership of the House. I congratulate the chairman of this committee, who was throughout active and with the utmost openness of mind, with regard to the formation of this bill. The minority not only had an opportunity to be heard, but it was also heeded in the suggestions that were made.

I am very glad to pay my tribute to the author of this bill. It is a great bill. We remember how that other great act of constructive legislation along this line is known as the Sherman antitrust law. I sincerely hope that this law, when it shall have been placed on the statute books, will be referred to throughout the years to come as the Covington trade commission bill [applause] so that the name of its distinguished author will be indissolubly linked with it throughout the years that it shall bless, as I believe it will, the country in its administration.

There is another thing we ought to learn in this regard, and that is that these things are after all a process of growth and evolution, and not of distinct creation. Take this bill in its conception and see how gradually it has been evolved. Perhaps there never has been a time when it would have been safe to pass this bill until now. And that is not the only thing that we should have in consideration. The progress of the development is also dependent upon the roots that go back of it, and that are found in the growth of public opinion, the education and development of thought along those lines. That can only come by the general enlightenment of a broad and generous discussion, such as this bill has had, not only here on the floors of the Congress, but also in the press, in the legal journals, by publicists and jurists everywhere. All these have made contributions to the present accomplishment. It was a wise statesman who said that no Government dared break utterly with its past; and if we shall seek for the roots of this legislation we shall not find them in the introduction of this bill, but in the events and discussions which preceded it. [Applause.]

Mr. ADAMSON. Mr. Speaker, I ask for a vote on the adoption of the conference report.

The SPEAKER. The question is on agreeing to the conference report.

Mr. BATHRICK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused, 13 Members, not a sufficient number, seconding the demand.

Mr. GREENE of Massachusetts. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The question is on agreeing to the conference report. Does the gentleman from Massachusetts make the point of no quorum present?

Mr. GREENE of Massachusetts. At the request of several gentleman I withdraw the point.

The question was taken, and the conference report was agreed to.

On motion of Mr. ADAMSON, a motion to reconsider the last vote was laid on the table.

SIXTH INTERNATIONAL SANITARY CONFERENCE AT MONTEVIDEO, URUGUAY.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution 166, authorizing the President to designate two officers connected with the Public Health Service to represent the United States at the Sixth International Sanitary Conference of American States to be held at Montevideo, Uruguay, in December, 1914, and

making an appropriation to pay the expenses of said representatives, and for other purposes.

The SPEAKER. The gentleman from Georgia asks unanimous consent for the present consideration of Senate joint resolution 166, which the Clerk will report.

The Clerk read as follows:

Resolved, etc., That the President be, and he is hereby, authorized to appoint or designate two officers of the United States connected with the Public Health Service to represent the United States in the Sixth International Sanitary Conference of American States to be held at the city of Montevideo, Uruguay, in December, 1914, and to pay the necessary expenses of said representatives in attending said conference, including the expenses of assembling the necessary data and of the preparation of a report, the sum of $2,000, or so much thereof as may be necessary, is hereby appropriated.

The SPEAKER. Is there objection?

Mr. MADDEN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

EXPLORATION FOR COAL, ETC.

The SPEAKER. Under the rule the House automatically resolves itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 16136, with the gentleman from New York [Mr. FITZGERALD] in the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 16136) to authorize exploration for and disposition of coal, phosphates, oil, gas, potassium, or sodium, with Mr. FITZGERALD in the chair.

The CHAIRMAN. General debate on this bill is limited to four hours, one-half to be controlled by the gentleman from Oklahoma [Mr. FERRIS] and one-half by the gentleman from Wisconsin [Mr. LENROOT].

Mr. DONOVAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. Is this one of the bills that come under the rule prohibiting debate on anything outside of the subject matter of the bill?

The CHAIRMAN. The rule provides that all debate shall be confined to the subject matter of the bill under consideration.

Mr. ADAMSON. Will the gentleman from Wisconsin [Mr. LENROOT] occupy some of his time?

Mr. LENROOT. I yield 30 minutes to the gentleman from Illinois [Mr. THOMSON].

Mr. THOMSON of Illinois. Mr. Chairman, when the appointments of Members to the various committees of the House were made it fell to my lot to be assigned to the Committee on the Public Lands. Having always lived in a big city, and having served as a member of its council or board of aldermen for five years previous to my election to Congress, I had become somewhat familiar with the problems of various kinds that confront the people of the cities. But when it came to the problems of the far West I was very much of a tenderfoot. I trust, however, that the study and attention I have tried to give these matters as they have come before our committee may have removed me from that class.

I have found that these problems of the West, and particularly those involving the public lands, though affecting the interests of the people of the Western States directly, also affect the interests of the people of the rest of the country, and while that effect is in some respects an indirect one, it is quite as vital as is the effect in which the people of Western States are interested.

The fact is the problems involving the great natural resources of our Nation are not local or sectional, and can not be considered as such. The riches of the earth, with which these problems have to do, such as coal, gas, oil, and other minerals, as well as the means of producing water power, are the properties, not of those who happen to live within the geographical unit in which these riches lie, but of the whole people of the country. Therefore such legislation as may be proposed for the development and use of these minerals and kindred things should have in view the best interests of the Nation as a whole and not merely the local community.

My attitude toward the legislation which has been proposed in connection with the problems involving our natural resources can not be stated better than by quoting the paragraph of the Progressive platform on that subject. It reads as follows:

CONSERVATION.

The natural resources of the Nation must be promptly developed and generously used to supply the people's needs, but we can not safely allow them to be wasted, exploited, monopolized, or controlled against the general good. We heartily favor the policy of conservation, and we pledge our party to protect the national forests without hindering their legitimate use for the benefit of all the people.

Agricultural lands in the national forests are, and should remain, open to the genuine settler. Conservation will not retard legitimate development. The honest settler must receive his patent promptly, without needless restrictions or delays.

We believe that the remaining forests, coal and oil lands, water powers, and other natural resources still in State or National control, except agricultural lands, are more likely to be wisely conserved and utilized for the general welfare if held in the public hands.

In order that consumers and producers, managers and workmen, now and hereafter, need not pay toll to private monopolies of power and raw material, we demand that such resources shall be retained by the State or Nation and opened to immediate use under laws which will encourage development and make to the people a moderate return for benefits conferred.

In particular we pledge our party to require reasonable compensation to the public for water-power rights hereafter granted by the public.

We pledge legislation to lease the public grazing lands under equitable provisions now pending which will increase the production of food for the people and thoroughly safeguard the rights of the actual homemaker. Natural resources, whose conservation is necessary for the national welfare, should be owned or controlled by the Nation.

Generally speaking, these conservation bills, which have been reported by our committee after weeks of very earnest consideration, conform to the lines laid down in the Progresesive platform on the subject. However, these matters are not only neither sectional nor local in character, but they are also in no sense partisan problems, and I would do or say nothing to make them such. Our committee has been refreshingly free from any partisanship in its consideration of these bills. While in some matters the views entertained by different members of the committee have been very widely apart, and while at times our genial and very able chairman, the gentleman from Oklahoma [Mr. FERRIS], has been obliged to use a firm hand in conducting the committee's business and deliberations, partisanship has never crept in or been evidenced by him in the slightest degree. As the Progressive Party member of the committee, I am very glad to give my hearty support to this legislation which the committee has reported, and I trust that all these bills, which came to the committee as administration propositions, may be passed and enacted into law by this Congress.

The first of the conservation bills which were reported to the House by our committee was the bill (H. R. 14233) providing for the leasing of coal lands in the Territory of Alaska. The actions of certain large and very powerful interests in this country some years ago, by which they attempted to grab and to fasten a perpetual monopoly on the immense coal deposits of that vast Territory, necessitated the withdrawal of practically all the remaining coal-bearing public lands of Alaska. This brought all development of these lands, proper as well as improper, to a standstill. That condition of things was, of course, not the end sought. These natural resources should and must be developed, but in a proper manner and in such way as to serve the best interests of all the people.

As declared by the Progressive platform, I have believed that the coal as well as the other natural resources of Alaska should be opened to development at once. These resources are owned by the people of the United States and are safe from monopoly, waste, or destruction only while so owned. I have believed that these coal-bearing lands of Alaska should neither be sold nor given away except under the homestead laws, and that while the lands or their deposits remain in Government ownership they should be opened to use promptly upon liberal terms requiring immediate and reasonable development.

Thus the benefit of cheap fuel will accrue to the people of Alaska and doubtless also to the people of our Pacific Coast States. The settlement of extensive agricultural lands in Alaska will be hastened, and the just and wise development of Alaskan resources will take the place of private extortion or monopoly.

This bill, providing for the leasing of the coal lands of Alaska, may be said to be a companion bill to the Alaska railroad bill recently passed by Congress. It is the corollary of that bill. Proper transportation facilities are essential to the development of the Alaskan coal fields, and the shipment of the product of these mines would seem to be necessary for the successful and profitable operation of those railroads. In providing for the construction of a railroad in Alaska by the Government we have struck from that Territory the shackles which were surely being fastened upon it by those who were acquiring a monopoly of the terminal facilities and the railroad lines.

By the withdrawal of the unentered coal lands of Alaska in 1906 the fraud by which many sought to evade the laws and take to themselves that to which they had no right was stopped. But, as Secretary Lane said when he appeared before the committee in connection with this bill, to continue that withdrawal has been an act of cruelty to the people of Alaska and an act of injustice to ourselves. This bill will open up these lands to a wise and well-regulated development through a leasing system.

There is much high-grade coal in Alaska as well as vast beds of a lower grade or lignite, which is suitable for domestic use.

While the Alaska coal output up to this time has been insignificant, the annual consumption in the Territory is over 100,000 tons. Most of this coal has been produced outside of Alaska, much of it being taken up there from the Vancouver Island fields. This bill provides for the leasing of Alaska's coal deposits in areas of sufficient size to warrant the installation of large and modern equipment and the mining and marketing of the coal upon payment of a reasonable royalty, while at the same time small areas may be developed and mined without charge for domestic needs.

The leasing periods provided for in the bill are indeterminate, so that lessees may be willing to expend the money necessary for the thorough equipment of a large mine. Provision is made in the bill, however, for such an adjustment of the terms and conditions of the leases at the end of 20-year periods as may meet materially changed conditions.

The royalties provided by the bill assure the Government an adequate return from lessees, and the rental provisions are designed to insure reasonably continuous operation of the mines.

Preference in the surveying and leasing of the various known fields is given to the Bering River and Matanuska fields, because they contain deposits of anthracite and high-grade bituminous coals, some of which are supposed to be adapted to Government uses, and because those fields lie within comparatively easy distance of rail and water transportation. In the other fields, containing chiefly lower grade bituminous or lignite coals, it has been deemed advisable to first make the surveys near established settlements or existing or proposed transportation lines.

The next bill to be considered, which has been reported to the House by the Committee on Public Lands, is the bill H. R. 16136. It has to do with continental United States. It concerns the development of our public lands containing coal, phosphate, oil, gas, potassium, or sodium, and, except as to coal, it also applies to Alaska. This bill, like the Alaska coal bill, is based on a system of leases and, in general, follows the terms of the Alaska coal-leasing bill just referred to. I trust Congress is going to approve the development of these lands through leases. It certainly should not be our policy to limit operations in coal, oil, gas, and the other things named to those who have money enough to make the huge investments that are necessary if the fields of operation must be owned in fee.

This system of leasing the public lands to those who wish to develop the natural resources is bitterly opposed by some of the Representatives of those States in which the public lands are located. The general reasons for their opposition are voiced in the minority views filed by Mr. TAYLOR of Colorado in connection with this bill.

In my judgment, these gentlemen are basing their objections on a false premise. They are assuming that the public lands and all the riches those lands contain, located within the geographical limits of their States, are the property of the people of those States. In his minority report on this bill Mr. TAYLOR refers to these lands and their resources as "the resources of the West," "the rights of the Western States," "our lands"—meaning the lands of the people of the so-called public-land States—"our resources," "the natural resources of our State," and so on.

These things can not properly be designated in any such manner. They are not the resources of the West, but, on the contrary, they are the resources of the people of the United States; they are not the rights of the West, they are the rights of the Nation; they are our lands and our resources, meaning the lands and the resources of the people of every State in the Union, no matter in which one of them the lands and the resources may lie.

These gentlemen proclaim that the first States admitted into the Union were given public lands and that the refusal of Congress to follow that practice is unwarranted discrimination against the West; that the East has no right to voice a protest, because the disposition of public lands is a local issue. They say that the former "Great American Desert" belongs to the States carved out of it, because they have developed parts of it, and that it should be turned over to the so-called public-land States to be sold for their benefit.

Those who maintain this doctrine are in the minority, and I believe they do not include the rank and file of the western people, nor is it by any means true, on the other hand, that they are all from the public-land States.

In proof of the fact that those of our friends from the West who, like the gentleman from Colorado, contend for State ownership and cry out against Federal control do not reflect the sentiments of some of their own people, I wish to call your attention to a protest made over a year ago by some of the people of the West, of Colorado itself, in fact, against this misrepresentation of the Federal conservation policy. It is, in part, in the following words:

A PROTEST AGAINST MISREPRESENTATION OF THE CONSERVATION POLICY OF THE FEDERAL GOVERNMENT.

DENVER, COLO., *February 14, 1913.*

The intemperate statements concerning the Federal policy of conservation which are being published in Denver should not be taken as representing the true sentiment of our people. However vehement the demand for State ownership of all our public lands may be, we are not going to take the advice given by one of the speakers at a recent luncheon, and "throw the Federal officials out of Colorado." Neither will we tolerate, without protest, the spirit that induced the governor to send a telegram to New York, in which he said that if President Wilson should reappoint Mr. Fisher as Secretary of the Interior it "would be a slap in the face of every Colorado citizen." The governor should not forget, in his eagerness to advance the unreasonable land policy which he advocates, that he was elected by a minority vote. There are many of his own political faith in the State who do not agree with him upon the great question of conservation. Besides, he is entirely out of harmony with the national leaders of the Democratic Party.

The charge, so often made, that our national conservation policy is retarding the development of our State is without any foundation in fact. Upon the contrary, the harm is being done by those who so heedlessly and continuously misrepresent the efforts of the Federal Government to protect the natural resources of our country for the present and future use of all our people. The argument, so frequently advanced, that, because of our forest reserves, prospective settlers are compelled to leave Colorado to secure farming lands elsewhere is childish in its weakness.

* * * * * * *

It has been shown over and over again that no legitimate settler is ever deprived of taking agricultural lands upon the forest reserves; but those who have started out to make the national policy of conservation appear bad, because they want it to be bad, refuse to be comforted.

* * * * * * *

The talk about retarding the development of our coal lands is on a par with the rest of the argument put forth in favor of State ownership of all public lands. If the Government held a few thousand acres of anthracite coal lands in the State of Pennsylvania, it might now be able to lease some of it and break the worst coal monopoly that ever existed in this or any other country. Enough coal has already gone into the hands of private ownership in Colorado to supply the demands of our people for 50 years to come, without drawing upon any other source of supply. Only a small acreage of this is being operated at the present time. But if anyone wants more coal land, he can still lease of the Government or buy it at the Government price.

But of all the special interests that are most active in this effort to break down the powers of the Federal Government in matters of conservation, the hydroelectric power companies come first. Here is the greatest prize of all, for in its future development lie the power and the heat that will ultimately turn all the wheels of industry and supply the comforts of our homes. Once in the hands of monopoly, what unearned increment might not be forced from the people?

It has been said by those who oppose Government restrictions in the use of water-power sites that such a monopoly would be impossible. Let us call your attention to the fact that such a monopoly already exists upon the Pacific coast, and that another is being rapidly formed in Colorado, which is absorbing all the developed power sites in the State. These companies care nothing for the average charge of 46 cents per horsepower per annum for the first 10 years they occupy these power sites, or for the $1 per annum that is charged for each year thereafter. That is not what worries them. It is the fact that the Government franchises under which they must operate reserve the right to regulate the rates whenever they become excessive or burdensome to those who must depend upon them for power or heat or light. They do not fear the State and that is why they are all so earnestly supporting the right of State ownership.

Col. Bryan has well expressed the reason for this conflict between the State and the Nation in a recent speech at Kansas City upon forest reserves and water-power sites:

"My observation is that you very seldom have a conflict between the State and the Nation unless some private interest is attempting to ignore the rights of both State and Nation. Back of this controversy which we hear suggested between the State and Nation, you will find the interest of the predatory corporation, that is as much an enemy to the people of the State as to the people of the Nation."

No one knows better than these hydroelectric power companies the weakness of State government when compared with Federal control. In their ability to deceive the people as to their real purpose in this contest lies their hope of success.

President Wilson, in the February number of World's Work, sounds this note of warning:

"What is our fear about conservation? The hands that are being stretched out to monopolize our forests, to prevent the use of our great power-producing streams; the hands that are being stretched into the bowels of the earth to take possession of the great riches that lie hidden in Alaska and elsewhere in the incomparable domain of the United States, are the hands of monopoly. Are these men to continue to stand at the elbow of Government and tell us how we are to save ourselves—from themselves? You can not settle the question of conservation while monopoly is close to the ears of those who govern. And the question of conservation is a great deal bigger than the question of saving our forests and our mineral resources and our waters; it is as big as the life and happiness and strength and elasticity and hope of our people."

John Grass; Frank C. Goudy; E. P. Costigan; Joseph E. Painter; American National Live Stock Association, by T. W. Tomlinson, secretary; Colorado Live Stock Association, by John Grattan, secretary; W. A. Hover; The Colorado State Forestry Association, by W. G. M. Stone, president; A. Lincoln Fellows; J. S. Temple; Jesse F. McDonald; Allison Stocker; H. H. Eddy; A. E. de Riegles; F. M. Taylor; Delta County Live Stock Association, by J. B. Killian, president; Cattle and Horse Protective Association, district No. 9, by John E. Painter, president; George J. Kindel, Member elect of Congress.

Those who oppose Federal control of the public lands may be divided into three groups. In the first group are those who are seeking the land for its timber, minerals, water power, or other resources. It is not their desire to help the States; they seek to benefit themselves. It is their plan to first loosen Federal control, thus making it easier to get the land from the more amenable State governments. On the pay roll of this group are those who are employed to stir up sympathy for the "State rights" cause. They have been referred to by others as the "cheer leaders," who from headquarters established in Washington and other points of vantage keep the public informed, through the channels of publicity which they can control, that the public-land policy established or proposed to be established by the Federal Government is "unwise, unjust, and detrimental and must operate to retard the best interests of the people of the country and prevent the proper development of our natural resources within the borders of the States of the great arid West which have been struggling under the blighting influence and effect of the shortsighted and ruinous public-land policies of the Government."

In the second group may be placed those who have been denied free grazing and other privileges formerly permitted without restriction on the public lands or those who have had their land entries canceled because of only a colorable compliance with the law. These people have a "grouch" against the Government because it has required them to live up to the law, and they refuse to adjust themselves to new conditions and proper regulations laid down for the disposition of these resources. The settlement and civilization of that once wide-open country, followed by the enforcement of law, have imposed onerous restrictions upon these old-timers, and, like the Indian who hopes to again see buffalo graze where crops now grow, they long for a return of the good old days when the boundless West was a no-man's land.

The third group is composed of a few people who, like our friend from Colorado [Mr. TAYLOR], honestly believe that the "State rights" cause is just. They do not approve of national forests or any other permanent reservations made for future as well as for present needs, maintaining that the land and other natural resources of the Nation should be disposed of for the benefit of the present generation. I presume those who are in this class believe those who are to come after us should look after themselves. "Why should we worry about them?" they ask. Quoting one of our early statesmen, they inquire, "What has posterity ever done for us?"

It is these advocates of State control, some in one of these classes and some in another, that do not like these leasing bills.

The corner stone of the argument of these gentlemen is to be found in the following paragraph in the minority report filed by the gentleman from Colorado [Mr. TAYLOR].

Says Mr. TAYLOR:

> In my judgment the bill H. R. 16136 is in violation of the moral, legal, and constitutional rights of the Western States; in contravention of the enabling act by which they were admitted into the Union, and to that extent are unconstitutional. I look upon this bill as absolutely taking from the people of the arid West some of the most sacred property and political rights they have, not only reversing the traditions of this Government for over a hundred years, but violating the very constitutional guaranties upon which those States were admitted into this Union.

Coming from a lawyer, and one who has lived most of his life in the public-land States, and who has rendered a service extending through some years in the legislature of his adopted State and who has been one of the Representatives of that State in this House for several terms, such an argument is nothing less than amazing. It is utterly annihilated by the mere reading of the enabling act by which his own State of Colorado was admitted into the Union. If the gentleman knew as much about the contents of that enabling act as one would be led to believe he did from an examination of the minority views he has expressed on this bill, he never would have written the paragraph I have quoted, for he would know that the enabling act in question provides in section 4 that the members of the constitutional convention to be elected by the people of Colorado—

> shall declare on behalf of the people of said Territory, that they adopt the Constitution of the United States; whereupon, the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory: *Provided*, * * * That said convention shall provide, by an ordinance, irrevocable without the consent of the United States and the people of said State: * * *
>
> Secondly, That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States. * * *

This enabling act was passed by Congress and approved March 3, 1875, and is to be found in volume 18, United States Statutes at Large (part 3), page 474.

The constitutional convention of the State of Colorado met at the city of Denver on the 19th day of December, 1875, and I would suggest to the gentleman from Colorado that if he will examine the proceedings of that convention for the afternoon session of February 3, 1876, reported on page 233 of the official report of those proceedings, he will find the following:

> On motion of Mr. Kennedy, the ordinance as amended was adopted by the convention in the words following:
>
> ORDINANCE.
>
> "In conformity with the requirements of an act of the Congress of the United States entitled 'An act to enable the people of Colorado to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States,' approved March 3, A. D. 1875, on behalf and by the authority of the people of the Territory of Colorado, this convention, assembled in pursuance of said enabling act at the city of Denver, the capital of said Territory, on the 19th day of December, A. D. 1875, does ordain and declare: * * *
>
> "Second. That the people inhabiting the Territory of Colorado, by their representatives in said convention assembled, do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposal of the United States. * * *
>
> "Third. That this ordinance shall be irrevocable without the consent of the United States and the people of the State of Colorado."

A duly certified copy of that ordinance and of the constitution adopted by the convention was forwarded to the President of the United States, whereupon the latter official issued a proclamation in which he recited the act of Congress referred to and the action of the convention in adopting the constitution and ordinance called for by that act and declared and proclaimed—

> The fact that the fundamental conditions imposed by Congress on the State of Colorado to entitle that State to admission into the Union have been ratified and accepted, and that the admission of the said State into the Union is now complete.

Therefore if Congress elects to lease the public-land resources located in the State of Colorado, under proper terms, it certainly is wholly within its legal and constitutional rights and is not violating any right of that State or of its people, the gentleman from Colorado [Mr. TAYLOR] to the contrary notwithstanding. In so doing Congress will be exercising no right which is "in violation of the moral, legal, and constitutional rights" of his State as Mr. TAYLOR contends in his minority report filed on this bill, but a right that Congress expressly retained as a condition precedent to the admission of Colorado, and to which the people of that State have expressly and specifically agreed.

What I have said about the enabling act and the proceedings of the constitutional convention of the State of Colorado is likewise true as to every public-land State in the Union with two exceptions, and in the cases of those two States the acts of Congress admitting them into the Union expressly grant certain lands to the States and then provide that they shall not be entitled to any land within their borders other than that expressly granted to them in those acts.

These clauses in the enabling acts of the new States, to which I have referred, have been declared valid by the United States Supreme Court in a number of cases. In Coyle *v.* Oklahoma (221 U. S., 559) the court holds that Congress may embrace in an enabling act conditions relating to matters wholly within its sphere of powers, such as regulations of interstate commerce, intercourse with Indian tribes, and disposition of public lands, but not conditions relating wholly to matters under State control, such as the location and change of the seat of government of the State.

Of course Congress only possesses such rights as have been expressly granted to it by the people through the Constitution. In making such disposition of the public lands as it sees fit Congress is within its rights as thus laid down in the Constitution, section 3 of Article IV of which says:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The remaining sentence of that clause or section, which reads—

> And nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State—

does not alter the situation, as claimed by the gentleman from Colorado, for the States have no claims which are or can be prejudiced by such a construction of the Constitution as involves the leasing of the public lands.

On page 6 of his minority views Mr. TAYLOR makes the following statement:

> No matter how loudly and vigorously and repeatedly it may be proclaimed that these lands "belong to all the people," the fact remains that when those States were admitted to the Union the United States Government entered into a solemn compact with each of them that the lands within their borders should be expeditiously and in an orderly manner disposed of to the settlers and be allowed to go into private ownership to help maintain the State government, and Congress has no moral, legal, or constitutional right to repudiate or violate that agreement.

The only "solemn compact" made with these States by the United States Government "when those States were admitted to the Union" was the enabling acts passed by Congress at the time of the admission of each of them. Not only is there no such agreement, as Mr. TAYLOR claims, contained in any of those acts, but, on the contrary, the "solemn compacts" thus entered into by the United States Government and the new States provides expressly, as I have pointed out, that the people of the States shall have no right or title to these lands, but that they shall be and remain at the sole and entire disposition of the United States Government.

But probably the gentleman from Colorado bases his statement which I have quoted on the fact that there was a "solemn compact" that when new States were admitted into the Union they were to come in having equal rights with the original States, and his contention is that the new States do not have such equal rights unless all the public lands within their borders are allowed to pass into private ownership.

Let us see about that. During the period of the Revolutionary War the most important internal problem was the disposition of the unappropriated lands claimed by some of the States in the Federation. The question then was what to do with these lands in the event of the successful termination of the war. It was feared that this problem would lead to fatal differences and jealousies. The States not containing any considerable quantity of unappropriated lands contended that as the war was waged with united means, with equal sacrifice, and at common expense, these lands ought to be considered as common property and should not be exclusively appropriated for the benefit of the respective States in which they were located. The landed States, however, argued that each State was entitled to the whole of their territory, whether public land or privately owned. To check the progress of discontent and to avoid the serious consequences to which the question might lead, Congress recommended that the States make cessions of the unappropriated lands to the Federal Government, and on October 10, 1780, Congress passed a resolution providing "that the unappropriated lands that may be ceded or relinquished to the United States by any particular State pursuant to the recommendation of Congress of the 6th of September last shall be disposed of for the common benefit of the United States," and further on the same resolution provides "that the said lands shall be granted and settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled."

In conformity with the recommendation of Congress, the several original States containing unappropriated lands made cessions of them to the United States. The object of these cessions, as declared in the articles of cession, was that the ceded lands should be held for the common benefit, "and shall be faithfully held or disposed of for that purpose, and for no other purpose or use whatever."

Thus by a common agreement the original thirteen States established the first public domain by grants of lands from the States to the Federal Government. These grants aggregated 259,171,787 acres. The establishment of this public domain was the tie that bound the original States together into the Union.

This first public domain lay north and west of the Ohio River—the Northwest Territory—and south of the Ohio and east of the Mississippi—the Southwest Territory. In the States formed out of these ceded lands the public domain is now so small as to be almost negligible.

It is difficult to find any valid claim for any of our States of the West to the public lands within their boundaries when we remember that, excepting the State of Texas, all the land west of the Mississippi River was bought and paid for by the Federal Government before most of the Western States were occupied by white men. These lands cost the Government a total of nearly three-fourths of a billion dollars. Not a dollar of this money was paid by any one of the States. It came out of the Treasury of the United States, money obtained from taxation of all the people.

Thus the Federal Government acquired its vast territory, since made into the States not included in the original thirteen, by cession of a small part and direct purchase of the largest part. No one ever hears any of these "State rights" advocates, in their clamor to have the Government turn these lands over to the States, suggest that a proportionate share of the cost or the present value of these lands be paid by those States.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. THOMSON of Illinois. I yield to the gentleman for a question.

Mr. JOHNSON of Washington. Does not my friend admit that all of the country known as the Oregon Territory came into the Union through discovery by Americans, and then through occupation and defense by the American people living in that country and not through any cost to the United States?

Mr. THOMSON of Illinois. No; I will not admit that. That is not my understanding of it at all.

Mr. JOHNSON of Washington. Does not the gentleman admit that the discovery by Capt. Robert Gray and his putting into the Columbia River and into Grays Harbor laid the foundation which made that United States territory?

Mr. THOMSON of Illinois. My recollection of it is that all that territory came in through purchase.

Mr. JOHNSON of Washington. It was claimed by Great Britain for a great many years, and at one time "fifty-four forty or fight" was a campaign cry.

Mr. THOMSON of Illinois. Our recollections may differ on this question. I do not want to take the time to discuss it further.

It is interesting to note the attitude of the Government toward its public domain as new States were settled and admitted into the Union. History does not bear out the assertion that it was the policy of Congress in the early days to give all the public lands to the States. Vermont, originally a part of New York, was the first State admitted into the Union (Feb. 18, 1791), and Kentucky, the second State, had been a part of Virginia. Neither Vermont nor Kentucky had any public lands within their boundaries.

There were less than 45,000 acres of public land in Tennessee, the third State, when it was admitted on June 1, 1796. This small area was too scattered to be administered by the Federal Government and for that reason the Government gave it to the State. As a comparison it may be stated that the two States recently admitted each received grants of more than 12,000,000 acres.

Texas was a Republic—not a Territory—with a form of government for 10 years prior to annexation in 1845. The area it covered was never a part of the public domain of the United States. It embraced no lands ceded by any of the 13 original States nor was it a part of the area bought and paid for by the United States or acquired through conquest. When Texas came into the Union the State already owned all the land the Republic had wrested from Mexico.

The fourth State admitted was Ohio. This was the first State formed out of the "Northwest Territory." The act of admission reserved to the Federal Government all the public lands within the State. And every State admitted since Ohio has had similar language written into its enabling act. Moreover, the constitutions of all these States admit, in no uncertain language, the Federal Government's title to the public lands.

Therefore in inserting the clause to which I have called attention in the various enabling acts of the new States Congress has simply claimed a right to deal with and dispose of the public lands similar to that right which the original 13 States granted to their Continental Congress as to their lands of like character, and in now making such disposition of the public lands as it pleases, whether it be by conveying in fee or by leasing, and thus conveying only a qualified title, Congress is not taking from the State in which the lands are located any right ever possessed by any other State nor is it failing to accord that State equal rights with the original States and all the other States of the Union.

That these enabling acts did not contemplate that all these public lands should go into private ownership is further indicated by another clause, providing that 5 per cent of the proceeds of the sales of agricultural public lands, which shall be sold by the United States subsequent to the admission of these States into the Union, shall be paid to the States for the purpose of making internal improvements, and then the enabling acts go on to say:

Provided, That this section shall not apply to any lands disposed of under the homestead laws of the United States or to any lands now or hereafter reserved for public or other uses.

The issue of State or private ownership versus Federal ownership and control of these public lands and natural resources is not a new one, as I have endeavored to show. Not only was it practically coexistent with the establishment of our Government, but since then, as our country has developed westward, periodically this old slogan of "State rights" has been resurrected by those who desire State control.

This question became a national issue in the thirties, after Illinois, Ohio, and other States formed out of the public lands had been admitted into the Union. The question was the most important one before Congress for several years. Those new States clamored for the right to own and dispose of the unappropriated lands within their boundaries.

The Federal control of public lands was ably defended by such farseeing statesmen as Webster and Clay. During the

progress of Webster's celebrated reply to Hayne on the public-land question, he said in part:

The public lands are a fund for the use of all the people of the United States; and while I wish that this fund should be administered in a spirit of the utmost kindness to the actual settlers and the people of the new States, I shall consent to no traffic of it, no waste of it, no cession of it, no diversion of it in any manner from that general public use for which it was granted.

About this time a bill turning over the public lands to the States was introduced in Congress. It was referred to the Committee on Manufactures, of which Clay was then the chairman, notwithstanding the fact that he remonstrated against the reference and insisted that the bill properly belonged to the Committee on Public Lands. He was then a candidate for President, and the friends of the measure believed that he would not dare injure his prospects as a presidential candidate in the new western States by reporting adversely on the measure.

In a private letter, dated March 28, 1832, to Hon. F. T. Brooks, Clay expressed his personal opinion of the issue in unmistakable language. He said:

You will have seen the disposition made on Thursday last of my resolution respecting the tariff. On that occasion some developments were made of a scheme which I have long since suspected, that certain portions of the South were disposed to purchase support to the anti-tariff doctrines by a total sacrifice of the public lands to the States within which they are situated. It will fail in its object; but it ought to be denounced * * *.

But they who had forced on him the duty of making this report were astounded when it was given to the Senate. His report on that occasion (April 18, 1832) is considered a masterpiece of statesmanship. Clay not only objected to the cession without cost to the States, but he also objected to sales of the public lands to the States for a nominal consideration. His report, applicable in many ways to the conditions of to-day, is in part as follows:

In whatever light, therefore, this great subject is viewed, the transfer of the public lands from the whole people of the United States, for whose benefit they are now held, to the people inhabiting the new States must be regarded as the most momentous measure ever presented to the consideration of Congress. If such a measure could find any justification, it must arise out of some radical and incurable defect in the construction of the General Government properly to administer the public domain. But the existence of any such defect is contradicted by the most successful experience. No branch of the public service has evinced more system, uniformity, and wisdom or given more general satisfaction than that of the administration of the public lands.

If the proposed cession to the new States were to be made at a fair price, such as the General Government could obtain from individual purchasers under the present system, there would be no motive for it unless the new States are more competent to dispose of the public lands than the Common Government. They are now sold under one uniform plan, regulated and controlled by a single legislative authority, and the practical operation is perfectly understood. If they were transferred to the new States, the subsequent disposition would be according to laws emanating from various legislative sources. Competition would probably arise between the new States in the terms which they would offer to purchasers. Each State would be desirous of inviting the greatest number of immigrants, not only for the laudable purpose of populating rapidly its own territories, but with a view to the acquisition of funds to enable it to fulfill its engagements to the General Government. Collisions between the States would probably arise, and their injurious consequences may be imagined. A spirit of hazardous speculation would be engendered. Various schemes of the new States would be put afloat to sell or divide the public lands. Companies and combinations would be formed in this country, if not in foreign countries, presenting gigantic and tempting but delusive projects, and the history of legislation in some of the States of the Union admonishes us that a too ready ear is sometimes given by a majority in a legislative assembly to such projects.

The arguments of Clay against the passage of the bill were so strong and so convincing that the advocates of the measure refrained from asking a vote on it. Its defeat did not completely stop agitation, however. Losing the fight for the whole pie, they still worked for a division of it. So, to appease their land hunger and quiet the clamor, Congress passed an act in 1841 granting each State 500,000 acres for the construction of internal improvements.

But for fear my "State rights" friends may think that these authorities I have been citing are not up to date, I shall quote from a more recent speech delivered at Denver, the capital city of the State from which my friend Mr. TAYLOR comes. This address was delivered on October 7, 1912, and the speaker said in part:

Now, what is very much in my heart, as I face a great assemblage like this, is the question, Is there any political process which can set this great people free from the thralldom of monopoly? [Applause.] For if we can not escape monopoly, we can not set up a free government in the United States.

Mr. TAYLOR of Colorado. What is the gentleman reading from?

Mr. THOMSON of Illinois. I will tell the gentleman in just a minute.

Mr. TAYLOR of Colorado. I did not recognize anything of the kind, and I wanted to know what it was.

Mr. THOMSON of Illinois. I will tell the gentleman in just a moment, being sure that the gentleman will be even more interested in it when he finds out what I am reading from. The address continues:

I want to ask gentlemen of this great western country, who are interested in its development, to ask themselves what has stood in the way of that development? You know that one of the critical questions in which you are interested is the question of conservation. You know that you are fretful and dissatisfied because great forest areas, great water courses, great mineral resources are held back from use by the Government of the United States, and that your local development seems to be checked by the stiff policy of restriction observed by the Government at Washington.

But why does the Government at Washington preserve this policy, so stiff and rigid and unchangeable? Because there are special interests which are stretching out their hands to monopolize these great resources which the people of this region ought to enjoy and to use—

And here the reporter has recorded the fact that there was extended applause—

and the Government of the United States dares not relax its grasp for fear these special powers that have been built up by the special legislation at Washington should become the master of your development and of the Nation's development itself.

Those are the words of President Wilson, who has no more loyal supporter, I am sure, than the gentleman from Colorado.

But to return to Mr. TAYLOR's minority report. On page 11 of the report the gentleman from Colorado states that no national political party has as yet advocated the principles laid down in these leasing bills, which are designed to keep the natural resources of our country out of private ownership. He quotes certain language from the national platforms of the Republican and Democratic Parties, which, in neither case, touches upon this question definitely. Then he goes on to say:

The National Progressive Party during the last campaign adopted a plank in its platform advocating the retention and control of these resources by the Federal Government. They did not advocate or say anything about the "leasing" of them for Federal revenue or otherwise, but merely declared for the "retention" of them by the Government to prevent monopoly and encourage legitimate development.

My friend Mr. TAYLOR could not have read the Progressive platform with much care. I do not see how he could have read through even the paragraph to which he is referring, for if he had he would certainly have found that the Progressive Party advocated something beyond this "retention" of the public lands, and that following that sentence the platform goes on to say that these lands should be—

opened to immediate use under laws which will encourage development and make to the people a moderate return for benefits conferred.

How, pray, could these lands be retained by the Government and at the same time opened to immediate use under laws which will encourage development unless those laws provided for the leasing of the lands where the title remained in the Government and the development was provided for in the terms of the lease?

Mr. TAYLOR of Colorado. Will the gentleman permit another interruption?

Mr. THOMSON of Illinois. Yes.

Mr. TAYLOR of Colorado. Has any Republican or Democratic platform in the history of this Government ever up to this hour advocated the leasing system of the public domain?

Mr. THOMSON of Illinois. That is not what the gentleman's statement was. The gentleman's statement was that no party had done so.

Mr. TAYLOR of Colorado. Will the gentleman answer my question?

Mr. THOMSON of Illinois. Not that I know of.

Mr. TAYLOR of Colorado. Even the Progressive Party did not advocate the leasing of the public domain.

Mr. THOMSON of Illinois. On the contrary, they have done that very thing. Just let me proceed a few lines further. Certainly such a party policy does not contemplate the turning of all these lands and resources over into private hands, but if the gentleman from Colorado could have endured the dry reading afforded by the Progressive platform long enough to get to the next paragraph beyond the one to which he has referred, he would have found the following:

We pledge legislation to lease the public grazing lands under equitable provisions now pending, which will increase the production of food for the people and thoroughly safeguard the rights of the actual home-maker. Natural resources, whose conservation is necessary for the national welfare, should be owned or controlled by the Nation.

My friend Mr. TAYLOR tells us in his minority report that he is opposed to having the resources of the West—he should have described them as the resources of the Nation—withheld from private ownership. He says he does not like absentee landlordism.

Mr. GOOD. Will the gentleman yield?

Mr. THOMSON of Illinois. I will.

Mr. GOOD. Just what position does the minority take on this matter? What would they substitute for the position of the majority? I am unable to tell from the reading of the minority report.

Mr. THOMSON of Illinois. Far be it from me to elucidate the report or explain the position of the minority. I occupy somewhat the position of my friend from Iowa. I prefer to leave that to be explained by the minority themselves.

Mr. GOOD. The gentleman being on the committee, I thought he might be able to read between the lines. Reading the report does not give us any information as to just what position they do take.

Mr. THOMSON of Illinois. If I had the time I might try to explain it. Farther on Mr. TAYLOR tells us that he and his constituents prefer to be governed by their own people instead of by rules and regulations promulgated from the city of Washington.

The gentleman from Colorado has not forgotten the fine example of private ownership recently furnished by the Colorado Fuel & Iron Co. in his own State, but he seems to have failed to appreciate the lessons which that example teaches. According to Mr. TAYLOR'S own statement, Mr. Rockefeller owns 40 per cent of the stock of this company, which mines probably 20 per cent of the coal produced in Colorado and owns a still greater percentage. There is private ownership; and Mr. TAYLOR tells us his people like it and are crying for more! These people of the West would have none of the order produced by regulations promulgated from the seat of their Government at Washington, but we are told they want private ownership, though it be accompanied by the riots and disorder produced by regulations promulgated from New York by certain absentee landlords who never get out of Wall Street. We are told that these people out there prefer to be governed by their own people, and not by the Federal Government, at least until, judging from recent events, their own people make such a mess of it that they have to send forth a Macedonian cry for help and have the Federal Government step in and stop warfare and bloodshed by the use of Federal troops.

I am unable to account for the logic of the people of a State that are so consumed with a continual howling about their "rights" that they utterly lose sight of the fact that they are not a country unto themselves, but one of a family of States, and that other members of the family have some rights, too, or that there are mutual obligations to be considered.

But Mr. TAYLOR tells us there is nothing in this leasing bill we are proposing that would prevent the operators of mines, if they were tenants of the Federal Government, from acting exactly as the mine operators of Colorado have been in the recent disturbances there.

It can not be that Mr. TAYLOR has not even read this bill! If he has, he has forgotten some of its provisions. In the first place, if the Colorado Fuel & Iron Co. was operating under such a law as this bill proposes, its holdings would be limited to 2,560 acres, so it would not be producing 20 per cent of the coal output of Colorado, and it would therefore probably be without the arrogance which goes with too much power. In the next place, I would remind my friend from Colorado that the pending bill contains the following language:

> Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by the Secretary shall be observed, and such other provisions as he—
>
> The Secretary of the Interior—
>
> may deem necessary for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare.

And also the following:

> That any lease issued under the provisions of this act may be forfeited and canceled by an appropriate proceeding in a court of competent jurisdiction whenever the lessee fails to comply with any of the provisions of this act, of the lease, or of the general regulations promulgated under the act and in force at the date of the lease, and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specific conditions thereof.

In his minority report the gentleman from Colorado makes much of the fact that a system of leasing certain of the public lands has been tried before in this country and, proving unsatisfactory, was abandoned. This leasing system covered certain lead deposits in localities now included in the States of Missouri and Illinois. Mr. TAYLOR tells us he is a native son of Illinois himself, so when he comes to appeal to those of us, his brethren of that State, to save Colorado and the other present public-land States from a revival of this vicious system, he waxes eloquent and quotes Shakespeare to us.

There can be no comparison between that old law and this proposed law which can lead to the conclusion which our friend from Colorado would have us make.

Even if the laws were the same or nearly so it could not be said that a plan that did not work out in this country over a century ago will not make a success to-day. But the two laws are totally different. The act of March 3, 1807, to which Mr. TAYLOR refers, merely says that—

> The President of the United States shall be, and is hereby, authorized to lease any lead mine which has been or may hereafter be discovered in the Indiana Territory for a period not exceeding five years.

A mere statement of that old law shows conclusively that there can be no comparison made between it and the terms of the pending bill. Under that old law lead-mine leases were issued under the supervision of the War Department, and the United States reserved a royalty or rental of one-sixth of the lead for Government use. Most of the discontent that grew up under that law was not due to the operation of the law itself, but such an immense number of illegal entries of mineral land got through some of the land offices that such operators as had leases refused to pay further rents or royalties. The experience of the country under that law has nothing to do with the question now before us. That law is as different from the one suggested in this bill, as the conditions to be dealt with to-day are different from those obtaining a century ago, when that law was tried. And, after all, it should be pointed out that coal lands or coal deposits may still be acquired in fee even after the passage of the pending bill, for section 2 of this bill provides:

> That coal lands or deposits of coal belonging to the United States, exclusive of those in Alaska, may, unless an offering, an application for offering, or an application for lease is pending hereunder, be acquired in accordance with the provisions of sections 2347 to 2352, inclusive, of the United States Revised Statutes and acts amendatory thereof or supplementary thereto, or such lands or deposits may be leased as hereinafter provided.

The third bill reported by the Committee on the Public Lands in this group is H. R. 16673, known as the water-power bill. One of the great problems before our country to-day is that relating to its water power. The use of electricity and electrical power is still in its infancy. In the next 50 years it is bound to grow to tremendous proportions. It is contended by some that such questions as the currency and the tariff are relatively unimportant when compared with the question of the developing and harnessing of the water power of our country and converting it into electrical energy for use by our people. That is a strong statement, but I feel it does not go too far.

In the hearings before our Committee on the Public Lands on this bill it was pointed out that engineers have estimated that the total available horsepower in the United States has been placed as high as 200,000,000. Of that possible development we have to-day about 6,000,000 horsepower created from water powers.

The very heart of this problem is to be found in the sites along the parts of streams where there is sufficient fall in the water to create power in commercial quantities, which sites are suitable for the erection of dams.

Groups of men of wealth and power, foreseeing the tremendous possibilities in this thing, have gone about acquiring and getting control of these dam sites not for the purpose of developing all of them, but with the object of developing some and preventing the remainder from being developed by anybody else, thus limiting the supply of the product, electricity, and giving them a monopoly of it. As one of the greatest authorities on the subject, Mr. Gifford Pinchot, stated, in testifying before our committee, "the essential danger in the water-power problem is the concentration of ownership and control." The bill H. R. 16673 seeks to avoid and prevent that danger, so far as dam sites located on the public lands are concerned. It provides for the leasing of these sites for periods not longer than 50 years.

The bill contains provisions which will insure prompt development, good service, and reasonable rates to consumers, and provisions designed to prevent monopoly. It further contains provisions whereby the people can take over the property and plant of the lessee at the termination of the lease at a compensation to be determined as provided in the bill or can lease for another term to the same or a new lessee on terms then to be agreed upon.

One of the arguments made against this bill by some who appeared before our committee was that it provides for too much Government control, and that such a system hampers development. The answer to that argument is to be found in the fact that about one-third of the total developed horsepower in the United States has been developed or is under process of development in the national forests where there has been Government control of this matter for some time. During the past two years 78 permits have been issued for water-power developments in the national forests, calling for 728,300 horsepower capacity at low water, and this in spite of the fact that these are revocable permits, as required by the present law, and in this

respect extremely undesirable from the standpoint of the investor.

One of the vital provisions of this bill is contained in section 5, which provides that at the end of the term of the lease, upon due notice having been given, the Government will have the right to take over the property, upon condition that it—

shall pay * * * the actual costs of rights of way, water rights, lands and interests therein purchased and used by the lessee in the generation and distribution of electrical energy under the lease, and, second, the reasonable value of all other property taken over, including structures and fixtures acquired, erected, or placed upon the lands and included in the generation or distribution plant * * *.

The water-power interests would have the Government, in case it elects to take over the plant at the end of the term, pay the reasonable value of all lands, rights of way, and water rights, as well as of structures and improvements. But I believe that if the community is to take over one of these plants it should not be required to bear the cost of the unearned increment which it has itself created. The community—the Government—grants a lease of a dam site to a power company. That lease carries with it not only the qualified title to the land which it covers, but it also thereby furnishes the power company with the opportunity to engage in the business of transforming water power into electrical energy and disposing of it in that community. The real estate involved in the enterprise, both that leased directly from the Government and that acquired in other ways, increases materially in value by reason of the growth of the community. While that growth is enhanced or made possible by the location of the power company at that point, it must also be remembered that the opportunity to engage in business there has come to the company from the community as a privilege which necessarily goes with the lease. Therefore the increase in real-estate values incident to the communities' growth should inure to the benefit of the community and not the power company. This makes the proper basis of value to be placed on all real property and water rights taken over by the Government at the end of the period, the actual cost of that property and those rights to the company and not the then fair value.

During the hearings on this bill our chairman, the gentleman from Oklahoma [Mr. FERRIS], illustrated this point very clearly by asking the following question:

I own 160 acres of land in Oklahoma. I lease it to you for 10 years. The day I lease it to you it is worth $3,000; the day your lease expires, from your proper compliance with the terms of the lease, that land has developed into a farm worth $10,000. Do you keep the $7,000 and return the $3,000, or do I get the $10,000 farm back?

Under such a leasing system as is proposed in this bill the Government retains control of the dam sites and thus holds the key to the entire situation and prevents these tremendously valuable sites from getting into the control of those who at least might, and, if we are to judge from past experiences, probably would manipulate them for their own great financial gain to the detriment of the public generally, who are really entitled to these benefits themselves.

When we began the consideration of this bill in committee I was in great doubt as to the wisdom of permitting these leases to run for as long as 50 years. Our committee, fortunately, had the benefit of the advice and suggestions of Secretary Lane, former Secretary Fisher, and former Chief Forester Gifford Pinchot. They all stated that this, in their judgment, was not too long a term for such projects if the bill contained such safeguards as it does. I was glad to follow the judgment of men of such experience and public spirit as these men are in a matter so fully within their experience and knowledge.

I believe the terms of these conservation bills safeguard the interests of the public in the great resources with which the bills have to do and insure fair returns to those who may invest in projects of these kinds. Under such laws the development of our natural resources should be prompt and would be upon a fair and equitable basis to all concerned. I hope, therefore, that all three bills may be speedily enacted into law. [Applause.]

Mr. LENROOT. Mr. Chairman, I yield 45 minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MADDEN. Mr. Chairman, in order that we may have some one here to listen to what the gentleman from Wyoming will say, I make the point of order that no quorum is present.

The CHAIRMAN (Mr. RIORDAN). The gentleman from Illinois makes the point of no quorum, and the Chair will count. [After counting.] There are 58 Members present—not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, and the following-named Members failed to answer to their names:

Aiken	Austin	Bathrick	Broussard
Ainey	Barchfeld	Beall, Tex.	Brown, N. Y.
Anthony	Bartlett	Bell, Ga.	Browning
Bulkley	Gillett	Lazaro	Roberts, Mass.
Burke, Pa.	Goeke	L'Engle	Rucker
Byrnes, S. C.	Gorman	Lesher	Sabath
Calder	Graham, Ill.	Levy	Scully
Campbell	Graham, Pa.	Lewis, Md.	Selis
Cantrill	Greene, Vt.	Lewis, Pa.	Sherley
Carlin	Griest	Lindquist	Shreve
Carr	Griffin	Linthicum	Slemp
Carter	Guernsey	Loft	Smith, Md.
Cary	Hamill	McGillicuddy	Smith, Samuel W.
Clancy	Hamilton, N. Y.	Mahan	Smith, N. Y.
Collier	Harris	Maher	Steenerson
Connolly, Iowa	Harrison	Mann	Stephens, Tex.
Copley	Haugen	Martin	Stout
Covington	Helm	Merritt	Stringer
Crisp	Hensley	Metz	Sutherland
Danforth	Hinds	Miller	Switzer
Davenport	Houston	Morgan, La.	Taggart
Decker	Howard	Morin	Talbott, Md.
Doughton	Hoxworth	Moss, Ind.	Tavener
Dunn	Hughes, W. Va.	Moss, W. Va.	Taylor, Ala.
Dupré	Humphreys, Miss.	Mulkey	Taylor, N. Y.
Eagan	Johnson, S. C.	Murdock	Towner
Eagle	Johnson, Utah	O'Hair	Townsend
Edmonds	Jones	O'Leary	Treadway
Elder	Kahn	Palmer	Tuttle
Estopinal	Kelley, Mich.	Parker	Underhill
Evans	Kent	Patten, N. Y.	Vare
Fairchild	Key, Ohio	Patton, Pa.	Vollmer
Faison	Kiess, Pa.	Payne	Walker
Fess	Kindel	Peters	Wallin
Finley	Kinkead, N. J.	Peterson	Watkins
Gallagher	Kitchin	Plumley	Whitacre
Gardner	Knowland, J. R.	Pou	Wilson, N. Y.
George	Korbly	Powers	Winslow
Gerry	Kreider	Rainey	Woodruff

The committee rose; and the Speaker having resumed the chair, Mr. FITZGERALD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having under consideration the bill (H. R. 16136) to authorize exploration for and disposition of coal, phosphate, oil, gas, potassium, or sodium, and finding itself without a quorum, he had caused the Clerk to call the roll, when 275 Members answered to their names, and he presented therewith a list of the absentees.

The committee resumed its session.

Mr. MONDELL. Mr. Chairman, the bill before the House is in some respects as important a piece of legislation as was ever considered by Congress, important for two distinct reasons. First, because it proposes what is, with the exception of some experiments along somewhat similar lines many years ago, a new and novel method of handling the public lands, and, second, because this new and novel method affecting vast areas will establish conditions likely to profoundly affect the political and industrial situation of the people of the region in which these lands lie. The gentleman from Illinois [Mr. THOMSON], who preceded me and for whom I have the most profound regard and respect, told us that he had never lived in a public-land region, that he had lived all of his life in a great city. What he said after making that announcement was interesting; considering his limited opportunity for information on the subjects involved, I am not surprised that he has failed to fully understand the attitude of most of our western people toward them. Since I was a boy of 7 years, when I lived on an Iowa homestead, I have never lived, except as my duties have kept me in Washington, anywhere except where I could almost daily see public lands, could mingle with men who were developing them, and have knowledge of the conditions under which they were being acquired and improved. I think, therefore, I have had as wide an experience with regard to the difficulties incident to the development of the public domain as most any living man.

I approach this question, therefore, from the standpoint of one who ought to know something about it. I approach it also from the standpoint of a man who represents more of the people dwelling within and more territory that will be affected by this legislation than any man in the House. I imagine that the State of Wyoming has perhaps more coal lands in proportion to her area than any region in the Union, Pennsylvania not excepted. We have nearly 100,000 square miles. Of that territory at least 20 per cent is underlaid with coal. No one knows how much of our territory will eventually produce oil, but from the northeast corner of the State, nearly 500 miles, as the crow flies, southwest to the southwest corner, you can not travel any considerable distance without finding oil indications. Oil prospecting is going on in very widely separated parts of the State. We are just beginning our development. We have been so far removed from the markets that it has hardly paid to develop in the past; but I expect that some day—and I think the men who are best informed on the subject argee with me—that we will produce more oil than any State in the Union, and that ultimately we may produce as much coal as any State in the Union, with perhaps the exception of Pennsylvania. At least 80 per cent of the lands containing these deposits are still public

lands. We are therefore profoundly interested in this legislation. It means a new economic policy, affecting our greatest industries. It means to a large extent Federal instead of local control. It means Federal ownership rather than private ownership, and he would be a brave man who would attempt to forecast the wide-reaching political effect of such a change of economic policy, carried on through the running of the years and of the generations.

WESTERN VIEW MISUNDERSTOOD.

The gentleman from Illinois [Mr. THOMSON] does not feel that we of the West have taken the proper view of our relationship to these great sources of national wealth within the boundaries of our State. The gentleman has carefully studied these questions and he has brought to the study of them a clear mind, an earnest desire to understand them. He is not to blame if he has failed, we think, somewhat to understand our attitude. A majority of the people of the West have not, I think, been in favor of State ownership of all their lands at this time, even if that could be brought about. Most of the remarks of the gentleman from Illinois were predicated upon the proposition that that was our view and doctrine. There has not been a time, in my opinion, in my State when a majority of the people would have been in favor of the State taking over all of the public lands if they had been offered to them. There are no doubt many who would like to have had that done, but there are also a large number who have felt that it would be too much of a burden to assume all at one time. As I have said, the cession of all of the lands to the States has not been the desire of the majority of the people of any Western State, so far as I know, although there have been many advocates of it. The people of the Western States have, on the contrary, been in favor of the disposition of the public lands gradually under carefully guarded laws, to the end that eventually we should have established the same system of private ownership that exists throughout the Union.

Our people have felt that was the only way we could be guaranteed that equal position in the Union which is our right. Personally I have long favored the retention by the public of the title to at least a considerable portion of our oil and coal lands, and when I say the public I mean not the Federal Government, but the people who under our form of government were intended to have control over local matters. Long since I should have been very glad to have supported a bill which would have largely extended the opportunities of our State to lease its oil and its coal lands, and so far as I have objected to Federal lease laws, my objection has been not to public ownership of title, but to Federal ownership of title. I have feared that that meant centralization, bureaucracy, control of local affairs from a great distance, and, finally, as this bill proclaims and declares, that the communities in which these great resources lie would not obtain any considerable part of the cream of the values taken from them in the way of royalty. The gentleman from Illinois somewhat misjudged our attitude when he said in substance that we resented that the representatives of the people of other States than public-land States should have something to say as to what should be done with the public lands. I do not think there has been any such feeling as that among the men from the public-land States. We realize that the public lands are the domain of the United States; that it is the duty of the Congress to provide for their disposition as the Constitution puts it, and that men from all parts of the country should contribute their energy and their ability to a solution of these problems.

What we have not liked is the assumption on the part of some that we do not know what is good for our people, an assumption upon the part of some that western Members of Congress were inclined to encourage the easy acquisition of the public domain and were not averse to its being acquired in large tracts, and in their desire to see their region develop, were not sufficiently mindful of the future. No one can be so vitally interested in having the landed property of a region owned and controlled and utilized in the general public interest as the men who live in the country where the lands lie. In a way, and in an important way, I insist that the people of these Western States are entitled to the benefits that accrue from the development of these lands; not altogether the people who are there now, but the people who may have the courage and the industry and the inclination to come there and help develop them. I do not believe that any part or parcel of them or the income from them belongs to those who see fit to remain among what are to them more satisfactory and congenial surroundings elsewhere in other regions and then expect to win something from the energy and the courage of the men who have gone forth to develop new regions.

Mr. GORDON. Mr. Chairman, will it interrupt the gentleman if I ask him a question at that point?

Mr. MONDELL. Not at all.

Mr. GORDON. The gentleman concedes that the public lands are the property of all the people of the United States——

Mr. MONDELL. Oh, as an abstract——

Mr. GORDON. As a legal proposition.

Mr. MONDELL. Oh, well; I do not care whether you call it legal or abstract, but whatever it is I shall not quarrel over the term.

Mr. GORDON. If that is true, then upon what theory does the gentleman claim that they belong to the people out in Wyoming, for example, just because they got there first or saw it first?

Mr. MONDELL. I did not say they belong to the people now there. The benefits belong to those who shall by their labor and energy make their resources available.

Mr. GORDON. Well, the people who may come to Wyoming.

Mr. MONDELL. That is it exactly.

Mr. GORDON. Where does the gentleman find any legal authority for any such contention as that?

Mr. MONDELL. I do not find any legal authority for the view some gentlemen take that they are to be allowed to remain snugly and smugly somewhere down East and benefit from governmental or other incomes from the toil, energy, and courage of men who go to the frontiers and develop their resources. I do not find any legal foundation for any such proposition as that.

Mr. LENROOT. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. LENROOT. Does the gentleman think there is any legal basis for the stockholders of the Colorado Iron & Fuel Co. to draw income from lands in the State of Colorado?

Mr. MONDELL. Oh, I do not care to discuss the Colorado Iron & Fuel Co. I do not live in Colorado; and that is entirely aside from the question, and the gentleman knows that it is entirely aside from the question.

Mr. LENROOT. Mr. Chairman, will the gentleman yield again?

Mr. MONDELL. There are conditions of private ownership that are not satisfactory. Further than that, the gentleman knows that I am in favor of a proper plan of leasing, and that I have introduced bills on that subject, and that I have pressed them before committees. But that does not change the fact that while there may be evils under private ownership—and there are—there are still evils, the extent of which we can not now measure, which may lie in the absentee landlordism and bureaucracy which attends permanent Federal control. Now I yield to the gentleman.

Mr. LENROOT. The gentleman did not get the purpose of my inquiry, which is that the people of the United States, represented by this Government, have exactly the same legal right in the public lands that the stockholders of the Colorado Iron & Fuel Co. have in the lands they hold under private ownership.

Mr. MONDELL. Well, I shall not discuss the legal end of it. Wisconsin once belonged to all the Nation, according to that legal proposition. My father lived there. It was a great many years ago, before there was a homestead law.

Mr. HULINGS. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. But Wisconsin eventually came to belong to the people who live in Wisconsin, and there is not anybody anywhere under the flag—any body of the public—drawing royalties from Wisconsin.

Mr. HULINGS. Will the gentleman permit an interruption?

Mr. MONDELL. Yes.

Mr. HULINGS. Was there ever any understanding that the lands in the territory included in the Louisiana Purchase, after States should be organized in that territory, should then belong to the States and should be for the benefit of the people of those States?

Mr. MONDELL. Well, it has always been the theory of our Government, and we have always proceeded on that theory, whatever the abstract fact of law may be, that eventually the Federal Government should part with this title. But I said to the gentleman that our people have not been demanding a cession of lands to the State. On the contrary, I think a majority of the people in my State have always been opposed to it, and I think that is true with respect to the people of most of the other public-land States. Our people have not claimed that the people there present to-day own all the wealth undeveloped in our lands. But we resent the notion that we are to be exploited as a foreign province for the benefit of people who live somewhere outside of our Commonwealths. That is what we object to.

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Illinois?

Mr. MONDELL. I will.

Mr. THOMSON of Illinois. The gentleman has stated several times that he is not contending that these natural resources belong to the people in those States to-day. To whom does he believe they do belong?

Mr. MONDELL. Oh, well, we have gone up and down and all around that proposition a great many times. The lands belong to the United States, and the United States, under the Constitution, has the right to make laws for the disposition of the lands. The Constitution does not say anything about holding on to them in perpetuity. Our people have finally admitted or agreed or been coerced into agreeing that disposition may mean long-continued control under lease.

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield again?

Mr. MONDELL. That is the theory of this bill.

Mr. THOMSON of Illinois. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. THOMSON of Illinois. As I understand, the gentleman believes in the Government policy of leasing these lands?

Mr. MONDELL. I do not believe unreservedly in the Government policy of leasing these lands. I believe in it simply because we can not get a better policy at this time. As an abstract proposition I do not believe that any central government anywhere on earth is or ever will be constituted so that it can wisely and continuously control a great landed estate lying 2,000 miles away from the seat of government. We accept this—I do—first, because I do believe in the public retaining the title to large portions of these lands.

If I had my way about it I would provide for the gradual transfer of these leases to the State as the Federal system develops and as the State gets into position to care for the leases. We can not do that now. It is impracticable at this time, and this is the way to reach the condition that we should ultimately arrive at.

But it is hardly worth while to discuss the abstract question as to whether the people of the country generally own these lands and own what they contain. This bill proceeds on the theory that whatever we obtain from them shall be used in that general country, because it provides that all the funds shall go into the reclamation fund for the building of reclamation works, and these reclamation works, with the exception of those in Texas, are all of them in States that have a greater or less amount of public land. It is not proposed to take the proceeds of the rental of these lands and distribute them among the people at large. So, as a matter of fact, the committee accept in the bill the view that we have always held, and what has largely been the basis of our legislation up to this time, that whatever money or benefit accrued from the disposition of the public lands should be for the use or benefit of the general communities in which the lands lay.

Mr. GORDON. Is not that plain usurpation? Do you think that is right, that they should appropriate those lands or the value of them, and turn them over to those States? Is there any legal authority for that?

Mr. MONDELL. We did that a long time ago.

Mr. GORDON. I know we did.

Mr. MONDELL. We did that in 1902. We appropriated the proceeds of the sale of public lands to reclamation purposes, and the present distinguished leader of the majority [Mr. UNDERWOOD] was a member of the Committee on Irrigation, of which I was also a member when we did that. He is a wise Democrat in some respects. He differentiates between the moneys taken from the people by taxation and the moneys which the Government receives as a fund from the disposition of the public domain.

Mr. GORDON. What differentiation does he make?

Mr. MONDELL. He makes the differentiation that one is taxes taken from the people, and it must be used, so far as we are able to judge intelligently, for purposes which are useful and beneficial to all of the people; that the public-lands fund, on the contrary, always has been a fund for the diffusion of knowledge generally——

Mr. GORDON. Generally.

Mr. MONDELL. Well, we have gone that far in some cases.

Mr. GORDON. What is the difference, then?

Mr. MONDELL. But in the main, for the building up of the region under the homestead law by grants for railroads and wagon roads, by grants to the States as they come into the Union from the Territorial condition, and then finally in the dedication, under the reclamation fund, of all the proceeds to the development of the very region where these funds are obtained. So that, after all, we do not very much differ, taking the view which the committee has crystallized into its legislation, as to who is entitled to the benefit of the proceeds of these leases of that general region. I want to discuss that a moment later, because I do not approve of the disposition the committee has made of the funds.

This Federal-leasing plan is a very big problem. Imagine, if you can, the effect on the States of Pennsylvania and Illinois to-day, those great oil and coal States, if all the oil and all the coal lands in both those Commonwealths were in Federal ownership and were occupied under lease. There are a lot of problems that would arise. The question of Federal police power is one of them, and it is going to be one of the big problems, and we have scarcely discussed it in connection with this legislation.

Mr. JOHNSON of Washington. Will the gentleman yield? Why does not the gentleman magnify the problem by adding all of the Eastern States that have coal or oil or minerals, just to show the enormity of the thing?

Mr. MONDELL. Of course that would be proper. I referred particularly to those States because of their large mineral areas and deposits, although they are also great manufacturing and great agricultural States. Take any State in the Union, like my State of Wyoming, with coal in every portion of it and oil in every part of it. How long it will take we do not know, but eventually it will be largely developed and, under this bill, largely under Federal control. If largely developed, there will be a bureaucracy big enough to fill with joy the heart of the greatest bureaucrat in any of the Government departments.

Mr. JOHNSON of Washington. It is likely to be greater than the State itself in some cases.

Mr. MONDELL. It is likely to raise and involve some questions that will more intimately affect large numbers of the people than the activities of State government itself. Of course my own opinion is that we will never reach that. I do not look upon this class of legislation as fixing a permanent condition. This is the beginning of a system of public control over certain minerals, but eventually that public control will be vested where it belongs under our form of government. The responsibility will be placed locally. There will then be no possible complications with regard to police powers, because the leases will eventually be in the hands of the States, the sovereignty which has complete police control. We can not do that now. We doubt if conditions are ripe for the States to take hold of these great areas.

Our communities have never gotten as much as they should out of the mineral wealth they produce. There is many a region in the country that has been stripped of its oil and its coal, where nothing is left behind in the way of permanent improvement to mark the passing of that great body of wealth.

It has taken our people a long time to get accustomed to the idea of Federal leases. We have had a good deal of experience with Federal agents, and my friend from Oklahoma [Mr. FERRIS] rather twitted some of us the other day of not being good citizens because things were said not altogether favorable to the increase of Federal powers, agents, and agencies. No man who ever stood on the floor of this House has so inveighed against bureaucracy as he has, and I guess with reason. [Applause.] I have heard him say, I think, that it would be difficult to conjure up a more unsatisfactory condition than they had when all of their lands and a large portion of their industries and most of their people were being controlled and cared for and their affairs looked after by Federal agents. Being a real red-blooded American, he does not like that kind of thing any better than the rest of us do.

We will have quite a bit of it under such legislation as this. Of course, we expect it will be quite different in many respects from what it is now before it becomes a law. If the majority will not allow it to be amended here, we have consolation in the fact that in another body a very much greater proportion of the membership is from States whose interests are vitally affected.

The plan of competitive coal leases with no preliminary prospecting period is seriously objectionable. The fact that the measure gives no protection to those who may have already undertaken development is another fault. The unfair disposition of the revenues is, from the standpoint of the States affected, the worst of all.

IMPORTANCE OF THE SUBJECT.

The question of the future use and disposition of the public lands containing coal and oil has been a very live one in the Western public-land States containing such lands since the first coal and oil land withdrawals and classifications, and

becomes increasingly important as the need and demand for the utilization of these lands and their products increases.

The coal-land withdrawals have been made, in the recent past at least, primarily for the purpose of fixing a price upon such lands in excess of the minimum prices of $10 and $20 per acre fixed by law. When so classified and appraised the lands have been restored to entry and sale under the coal-land law.

The classified prices have, however, been placed so high, running from the minimum to nearly $500 per acre, that these prices, together with the interpretation placed on the provisions of the law by the Interior Department, have greatly discouraged, and in many districts entirely prevented, purchases of coal lands.

In the case of oil lands the withdrawals have been absolute and so far permanent, and frankly with a view of persuading or compelling Congress to enact some law other than that now on the statute books for their disposition.

The classification of coal lands at high prices and the complete withdrawal of oil lands have therefore, through different methods, created practically the same condition with regard to both classes of lands, a condition of almost complete suspension of development so far as public coal and oil lands are concerned.

It is but stating what is well and generally known to say that the policy of withdrawal of oil lands and of classification at high prices of coal lands has been pursued with a view of furthering or compelling the adoption of a Federal leasing policy as the only available way out of the intolerable conditions which these policies produce.

WESTERN OPPOSITION TO LEASING.

The people of the public-land States have not been generally inclined to view with favor the inauguration of a Federal leasing policy for a number of reasons, which for the purposes of this discussion it is not necessary to discuss at length; I shall refer briefly to some of them. Primarily the opposition to the inauguration of such a system has been due to the fact that, with the exception of some unhappy experiences in the leasing of lead mines half a century ago, such a policy is entirely new and novel in our history, and there has been a widespread opinion that such a system would have a tendency to discourage development by lessening the incentive for individual enterprise.

Opposition to a Federal leasing system as applied to mineral lands has also arisen out of the fear that any system that might be inaugurated would lodge such wide discretionary authority with officials at Washington, to be exercised in the main through uninformed and arbitrary minor officials, as would render operations particularly by people of limited means and little influence difficult, uncertain, and expensive. There has also been a deep-rooted suspicion, amounting almost to a conviction, that the plan of Federal leasing would result in depriving western communities in which the minerals proposed to be leased were located of a considerable portion of the revenues and benefits which should be theirs in the development and use of their resources.

To state very briefly the three classes of unfavorable results which our people have most feared under a Federal leasing system they are, first, the checking of development; second, the establishment of a bureaucratic control, expensive and exasperating; and third, the loss of revenues and benefits by the communities and States affected.

Those who have given these matters most careful consideration in the regions affected have not been blind to certain advantages which accrue to States and communities under a proper system of public ownership of certain classes of mineral land. In fact, a number of Western States have profited and benefited largely through the leasing of some of their mineral land and the policy of leasing such lands rather than selling them has grown in favor. The objections which have been voiced and the fears which have been expressed have therefore been directed not so much against the idea of public ownership under a leasing system as against Federal ownership and leasing and for the reasons I have stated. The public-land States, if ultimately granted their coal and oil lands, which would be the best possible solution of the problem, would be glad to accept them under condition that the title should remain in the States.

CHANGE IN WESTERN SENTIMENT.

As time has passed it has become more and more apparent that without some decided change in public sentiment throughout the country, not, apparently, likely soon to occur, the only way of escape from the condition of classification and withdrawal which has existed for some time, and grows constantly worse, was through the adoption of a Federal leasing system. Such a system has, under these circumstances, secured some considerable support in the public-land States through the operation of a number of causes: First, through the disposition of those who desire to secure opportunities for development on oil lands which have been withdrawn or coal lands which have been priced beyond reason to accept almost any plan which promises any sort of relief; second, through the influence of those who have been impressed by the very general arguments of the advocates of Federal leasing but who themselves have given little through or effect; and, third, among the more numerous class, among whom I subscribe myself, who, having concluded that a system of retention of public coal and oil lands in public ownership as to title has much to recommend it, and who, being convinced that the inauguration of such a system through local public control is, for the present at least, impossible, have been inclined to favor a Federal leasing system for coal and oil lands, providing such a system can be secured in such form as to obviate or largely minimize the objections to such a system which I have outlined.

I have been the more inclined to favor the Federal leasing system for coal and oil lands because of the fact that I have discovered a disposition, as I have believed, on the part of some advocates of such legislation and some of those who would be charged with the administration of such legislation to give consideration to the western viewpoint and to advocate and aid legislation which promises to give us the maximum of the advantages which might accrue with a minimum of the disadvantages and difficulties inherent in an administrative system having to do with extensive and important industries and administered through bureaus at long range.

LEGISLATION PRESENTED.

In this frame of mind, and with these objects in view, I introduced some time ago House bill 11762, providing for the leasing of public coal lands, and House bill 12246, providing for the leasing of public oil lands. While I did not expect that these bills would be reported, but took it for granted that bills introduced by the chairman or some other majority member of the Public Lands Committee would be the basis of legislation, I did hope that the legislation reported would be of a character which would command my support and that of other western Members. I regret to have to say that the legislation on the subject, which has been reported, is in many respects a great disappointment to me, and will, I fear, when fully understood, be a great disappointment to many in the West, who had hoped for legislation which they could support and approve.

The Committee on the Public Lands has, after giving the matter consideration, reported House bill 16136, a bill to authorize exploration for and disposition of coal, phosphate, oil, gas, potassium, or sodium. In what I shall have to say in regard to this legislation I desire to emphasize the fact that I appreciate the difficulties under which the committee labored in drafting legislation along new lines dealing with important subjects with which the majority of the members of the committee could not, in the nature of things, be personally familiar. I fully appreciate the earnestness and the good faith with which the members of the committee approached their task, and the care they gave to the consideration of the details of the measure. I therefore sincerely regret I can not agree with them in the conclusions they reached.

WHAT THE BILL PROPOSES.

In the brief review which I propose to make of the bill I shall not refer to all of the objections to its provisions, form, and phraseology which occur to me, many of which could be cured by elimination and amendment, but shall confine myself in the main to those features of the measure which seem to me most highly important and fundamental. The bill is, in fact, four measures in one. Its first section is general. The second to eighth sections, inclusive, deal with coal; the ninth to twelfth sections with phosphates; the thirteenth to seventeenth with oil and gas; the eighteenth to twenty-first sections with potassium or sodium lands and deposits; the remaining 11 sections of the bill contain general provisions applicable to leases covering the various deposits mentioned and lands containing the same.

It seems to have been deemed advantageous from a legislative standpoint to deal with all of these subjects in one measure; the result has been that general provisions have been adopted which, while some of them may be properly applied to all of the classes of leases contemplated, and some of them may be wise and practicable as regards certain classes of the leases contemplated, a number of them are neither wise, practicable, or workable when applied to certain and important classes of the leases contemplated. If it was desired and desirable that all the legislation proposed with regard to mineral-land leasing should be embraced in one bill, each subject matter should have been completely treated separately, except for some few general

provisions which might apply to all. The conditions surrounding oil-land development, for instance, and those surrounding the mining of coal are so widely different, the various operations are of such essentially differing character, that it is impossible to frame general provisions relating to operations and leases so dissimilar that will be wise and practicable as regards all classes of leases.

While under the conditions of withdrawal which exist it is perhaps wise to legislate for the use and disposition of phosphate and potassium or sodium deposits, such legislation as compared with legislation affecting coal and oil and gas is relatively unimportant, and I shall therefore confine myself principally to the legislation as it affects these latter classes of minerals on the public lands.

WIDE AUTHORITY IN SECRETARY OF INTERIOR.

The first and most serious objection to the proposed legislation is found in the wide, exclusive, and extraordinary discretion which it lodges with the Secretary of the Interior, and in this all-embracing discretion is realized the fears which have so strongly tended to make the people of the public-land States fearful and suspicious of a Federal leasing policy.

Except for certain limitations as to acreage, certain minimum rents and royalties, and certain provisions as to the period of the lease, or of readjustment of royalties, the Secretary of the Interior is given practically unlimited authority as to the granting and the terms and conditions of leases. One will search the bill in vain to find any provision in it which insures to anyone under any circumstances the unquestioned right to make a lease. The bill contains no provisions under which anyone may know prior to the actual signing of a lease and after all preliminaries, explorations, and expenditures have been made what the rates of rents or royalties are to be, and in the case of coal the applicant or lessee may not determine the size or the form of his lease, even within the limitations fixed by the statute.

In the case of coal the Secretary of the Interior determines within the limitation of 2,560 acres the area and the form of the tract to be leased, and no preliminary period or opportunity for prospecting is granted. The Secretary fixes such minimum royalty as he chooses above the minimum of 2 cents a ton fixed in the bill, and the lessee must, if he leases, pay the royalty so fixed plus such royalty as competitive bidding may establish.

In the case of oil or gas a temporary prospecting permit may be granted for 640 acres, and 10 miles or more from producing wells a permit for as much as 2,560 acres may be granted, and the first discoverer in a new field may secure a patent for not to exceed 640 acres. Leases are limited to 640 acres, and the royalty is to be fixed by the Secretary of the Interior with such additional royalty as may be added through competitive bidding. No one person may be directly or indirectly interested in more than one lease covering the same class of mineral, unless the authority granted the Secretary in section 25 to allow subletting or assignments may be held to modify this provision.

Section 25 of the bill grants the Secretary authority to insert in the leases practically any and every provision he may see fit or deem necessary, with regard to the character of mining and drilling operations "for the protection of the interest of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare." These are all highly proper purposes to be served, but what successive Secretaries of the Interior might determine came within the purview of these general provisions no one may know or even guess.

WIDE DISCRETION NOT NECESSARY.

It is no doubt necessary to give the Secretary of the Interior considerable discretion along certain lines in leasing legislation, but one must have an exalted and optimistic opinion of the wisdom, virtue, fairness, and unlimited capacity for attention to details, of any public official to be willing to lodge with him such far-reaching discretionary powers. The present Secretary of the Interior is, I believe, a wise and well-meaning man, but there have been Secretaries and there no doubt will be others who some people will insist are not richly endowed with these virtues. In any event it is not the Secretary of the Interior but officials under him who will execute a law like this, and discretion thus lodged is in fact placed in the hands of bureau subordinates rather than in the hands of the Secretary.

It is entirely possible to have the details of leasing legislation fixed by statute. It is so fixed in every other country where public-leasing legislation has been had. This is a government of law and should not be allowed to become a government of persons and of personal policies. The rights of citizens, claimants, and applicants, their rights and obligations, undetermined in this bill, should be made clear. This should be done in the interest not only of those who may seek to operate under the law but in the interest of the general public as well.

The features of the legislation to which I have referred are those which primarily interest and affect intending operators. They are also features of great importance to the general public in the localities in which operations will be carried on under the law, by reason of their effect upon development. These features are also of wide and permanent interest to the people of the country generally, by reason of the profound effect they would have on Government methods of administration and because of the danger of unwise or venial exercise of vast authority and wide powers of discretion.

INCOME FROM LEASES.

I now propose to refer briefly to some features of the proposed legislation which are of primary interest and importance to the States and the communities in which the resources lie which it is proposed to lease. I refer to the disposition and use proposed to be made of the rents and royalties which are to be secured. Under the system for the disposition of the public lands containing these minerals which has hitherto prevailed 5 per cent of the cash receipts obtained from them has been paid to the States on the theory of partial compensation for prior loss of taxes, and the lands disposed of immediately become taxable and share in the support of local government. Formerly the remainder of the receipts from public lands went into the Federal Treasury, but since 1902 these receipts have gone into the reclamation fund for the construction of projects for the irrigation of lands in the arid and semiarid portion of our country.

The bill under discussion provides that all rents and royalties paid under its provisions shall become a part of the reclamation fund, with the proviso that—

After use thereof in the construction of reclamation works and upon return to the reclamation fund of any such moneys in the manner provided by the reclamation act and acts amendatory thereof and supplemental thereto, 50 per cent of the amounts derived from such royalties and rentals so utilized in and returned to the reclamation fund shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State within the boundaries of which the leased lands or deposits are or were located, said moneys to be used by such State for the support of public schools or other educational institutions, or for the construction of public improvements, as the legislature of the State may direct.

Any Federal leasing legislation will, as a matter of course, deprive the States of the 5 per cent which they would otherwise receive from sales of lands of the character proposed to be leased, as such lands would not be sold. It would also deprive the States and communities of the opportunity to tax the lands, as they would remain in national ownership, and if the leasing system became general this would involve a loss of revenue which must be secured in some other way. I assume that under the terms of the bill improvements upon the leased lands would be locally taxable, but there is a difference of opinion on this point, and I understand that a proposed amendment offered in committee for the purpose of making that point clear was voted down. That question may therefore be said to be left undetermined. A number of the Western States have a mineral-output tax. Whether or not such a tax could be legally levied and collected on minerals owned by the Government and operated under lease is at least a debatable question.

If it should develop that either one or both of these sources of local revenue were closed, the States whose mineral wealth was being depleted under the system proposed would be greatly impoverished, and if the system were to be general in its operation they would eventually be well-nigh bankrupt under this bill which proposes to grant them no part of the income from the Federal leases except such portion of them as might some time in the future be returned to them after they had been used on reclamation projects and returned through repayments. These returns would not only be tardy, but altogether uncertain without regard to the success of the reclamation projects, as I shall endeavor to point out.

PROVISIONS BAD AT THE BEST.

In order to put the matter in the best possible light under the provisions contained in the bill let us assume for the sake of argument that taxes on improvements on the leased property and mineral-output taxes on the products of the same may be legally levied and collected. The States and communities would still be heavy losers in revenues under a leasing system from which they receive directly no share of the royalities, as compared with a system of private ownership. With lands in private ownership the States and communities directly and indirectly, in addition to improvement and mineral-output taxes where such exist, are able to, and do, reach, assess, and tax the values which are invested in or represented by the actual real property, the land and its contents. Where mineral-output taxes relieve in whole or in part from a diect tax on the land and its contents, such taxes are to that extent equivalent to a tax

on royalties, as is clearly demonstrated by the fact that where operators lease from private parties the burden of the output tax is recognized as affecting the royalty values.

As I have heretofore indicated, one of the most potent, if not the most convincing, arguments tending to incline people in the States affected by this legislation to view leasing with favor has been that under such a system they could properly hope for and expect a larger return to the communities, to aid in carrying the burdens of government and in making permanent improvements, such as roads and bridges, than they have generally received under a system of private ownership. If disappointed in this hope and expectation, then Federal leasing represents nothing to them but Federal interference and Federal exploitation.

ROYALTIES THE CREAM OF MINERAL VALUES.

Royalties represent the cream of the mineral values, the unearned increment in which under all proper rules the immediate community is entitled to share. In many portions of the country coal and oil operations are carried on to a considerable extent under private leases. The farmer or landowner in that event pays directly in taxes on the land a portion of his royalties and the remainder is largely invested in the community, still further aiding in its development and support. Where the operator owns his property in fee the community taxes his investment in lands and deposits as well as his improvements, either directly or indirectly, through an output tax, and generally in both of these ways. In other words, elsewhere in the Union the community shares in the element of value which in the case of a Federal lease is represented by the royalty. It is now coolly proposed that the Western States, over which the proposed law is to operate, shall be deprived of these benefits.

I have repeatedly stated that the West had hoped that whatever the handicaps inevitable to bureaucratic control they might be, at least partly, minimized by definite legislative declarations as to the rights and obligations of lessees and operators, and that through larger benefits to the communities in return for the mineral resources as they in the returns from royalties, they might be recompensed for less rapid development than under private ownership. This bill bitterly disappoints those hopes and expectations. The cream is skimmed off and the skim milk left the States and communities.

PROPER DISPOSITION OF ROYALTIES.

The coal and oil leasing bills which I introduced and which I have heretofore referred to, provided that all sums obtained from rents and royalties should be paid to the States in which they were collected, the use and disposition of the same to be provided for by the State legislature. A fairly equitable distribution by the legislature would be one-half to the counties for the benefit of the communities where the royalties were produced and one-half equitably distributed through the State for schools and roads.

Instead of this helpful plan, based on the equities of local and State claims, the bill under discussion gives the States and communities no portions of the rents and royalties directly or within any reasonable period, if at all.

It has been, and it will be claimed in defense of the provisions of the bill, that the States affected and interested receive all of the rents and royalties, because they are to cover into the fund which reclaims western lands. Those who seriously and in good faith make this argument as a justification for refusing to give the States and communities where the rents and royalties are gathered any portion of them directly and immediately must do so through misapprehension of the situation and of the effect of the policy they advocate.

Our western people have a lively and abiding interest in the reclamation fund. They desire to have it replenished and utilized in the construction of reclamation projects, but they can not be convinced that a large number of western communities should be deprived of necessary and essential revenues in order that some western communities may be benefited by national reclamation.

RECLAMATION FUND NOT DEPENDENT ON THESE FUNDS.

Our people realize that such a procedure is as unnecessary as it would be unwise and inequitable. The reclamation fund is supplied by the proceeds arising out of the sale and disposition of public lands, and but a small proportion of these proceeds has come from the sale of coal and oil lands. The total receipts from public lands turned in to the reclamation fund from 1901 to 1913, inclusive, has been over $80,000,000, of which sum less than fifty-seven millions came from the sale of oil and coal lands. The reclamation fund does not, therefore, depend to any considerable extent upon income from these sources, but will continue to be supplied from the sale and disposition of other classes of lands, which are estimated for the future at about $7,000,000 per annum. Furthermore, the reclamation fund will from now on be increasingly augmented through repayments into the reclamation fund.

The gross inequity of the plan of turning all rents and royalties from leasing into the reclamation fund is apparent upon the slightest consideration of the situation. To turn the proceeds of land sales above the 5 per cent which goes to the States into the reclamation fund is equitable, for the lands sold become taxable and the communities and States receive their support therefrom. On the contrary, the leasehold prevents sales and prevents the taxation of the mineral values in the property. Without the rents and royalties the communities would be deprived of that income so necessary where mineral development is going on to build and maintain schools, and large sums are needed for roads.

In view of this state of affairs it would be a gross injustice to divert all of the rents and royalties into the reclamation fund, even though the fund were to a considerable extent needing and dependent upon this source of income, which it is not. Irrigation is highly useful and valuable, the reclamation of lands under national projects is highly beneficial; but an interior county in Wyoming, for instance, deprived of the benefits they should receive from mining development in their midst to help build schools and roads and to carry on affairs of government, could scarcely be expected to be reconciled to their loss of revenue because it was being used to build an irrigation project in Texas. They could scarcely be expected to be happy, even though their revenues were being used no farther away than in Montana, or even several hundred miles away in their own State.

The point of it all is that if rents and royalties are to be collected by the Government from lands within the States, those rents and royalties should, in the main, go, first, to the immediate community and, second, to the State. Reclamation projects, beneficial as they are, affect but a very small proportion or percentage of the people of any State, and he is not a friend of the West who would tax development in the West to a burdensome extent even for this worthy purpose. It might under all the circumstances be proper to divert a portion of these rents and royalties into the reclamation fund—enough to compensate the fund in the long run for loss through discontinuance of sales. At the outside this would be less than half the amount of the rents and royalties.

RETURNS WOULD BE LONG DELAYED.

The friends of the bill in question defend it by pointing to the paragraph which I have quoted, which proposes that the royalties and rentals, after first being used in the construction of reclamation works and repaid to the fund, shall, to the extent of 50 per cent of the receipts, be returned to the State where they originated. This is a real joker, though it is our duty, I presume, to assume that it was proposed in seriousness and in good faith. This provision has already been used as an argument against the extension of reclamation payments and defended on the ground that the States in which mineral resources are located have no special claim on them and no particular cause for complaint if they never receive any part of the rents and royalties. I defy anyone to intelligently diagram the procedure through which a dollar, paid into the reclamation fund at a given time, may be so tagged and identified that it shall be known whether it goes into a $10,000,000 project in Texas, an $8,000,000 project in Idaho, or when it is repaid.

Assuming, for the sake of argument, that a system of bookkeeping could be devised which would make the plan proposed practicable, the delay before communities received any benefits would be intolerable. Several years might elapse after the money got into the reclamation fund before it was utilized or expended. Several more years might elapse before the project was opened and payments began. The period of payments should be 20 years, and will be when a bill which has passed the Senate and been reported in the House becomes a law. It might therefore be 25 years, or even more, before money received as rents and royalties from a given State and paid into the reclamation fund would be returned to the State. In the meantime the communities and the States in which development was going on, necessitating a large outlay for public purposes, would be bearing this heavy burden, while large sums obtained in the development of their mineral resources were being used for the development of communities hundreds or even thousands of miles away.

Many of the provisions of the bill in question are, in my opinion, subject to criticism and should be amended or eliminated. The plan of leaving the entire question of royalties to the Secretary of the Interior to be further increased, if possible, by bidding, is subject to the gravest abuse, and, coupled

with a denial of all benefits to the localities affected, constitutes a system of exploitation worthy of the most grasping of absentee landlords. The bill abounds in objectionable features of detail, but the great and paramount objection to it lie in the features which, taken together, vest extraordinary and dangerous powers in a Government department and those which divert needed revenues from the communities and the States from which they are obtained. Leasing legislation should define the rights granted and fix at least the important features of the contract between the Government and the operator. It should also be of substantial benefit to the communities and the States in providing funds for schools, roads, and other essential public purposes. The bill in question should be amended to conform to these needs and requirements of the situation.

Mr. LENROOT. Mr. Chairman, I yield the gentleman 10 minutes more.

Mr. DONOVAN. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. FERRIS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FITZGERALD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16136 and had come to no resolution thereon.

SIXTH INTERNATIONAL SANITARY CONFERENCE, MONTEVIDEO, URUGUAY.

Mr. ADAMSON. Mr. Speaker, I renew my request for unanimous consent for the present consideration of Senate joint resolution 166, authorizing the President to designate two officers connected with the Public Health Service to represent the United States at the Sixth International Sanitary Conference of American States, to be held at Montevideo, Uruguay, in December, 1914, and making appropriations to pay the expenses of said representatives, and for other purposes.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

Resolved, etc., That the President be, and he is hereby, authorized to appoint or designate two officers of the United States connected with the Public Health Service to represent the United States in the Sixth International Sanitary Conference of American States, to be held at the city of Montevideo, Uruguay, in December, 1914; and to pay the necessary expenses of said representatives in attending said conference, including the expenses of assembling the necessary data and of the preparation of a report, the sum of $2,000, or so much thereof as may be necessary, is hereby appropriated.

The SPEAKER. Is there objection?

Mr. DONOVAN. I object.

Mr. ADAMSON. Mr. Speaker, I hope the gentleman will withhold his objection——

Mr. DONOVAN. Mr. Speaker, I am going to oppose all appropriations when we are about to pass a war measure.

The SPEAKER. Does the gentleman object?

Mr. DONOVAN. I object.

GRAND ARMY OF THE REPUBLIC.

Mr. BARNHART. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House concurrent resolution 42, with Senate amendments thereto, and to consider the same at this time.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House concurrent resolution 42.

Resolved by the House of Representatives (the Senate concurring), That there shall be printed as a House document 1,100 copies of the journal of the forty-eighth national encampment of the Grand Army of the Republic for the year 1914, not to exceed $1,600 in cost.

With the following amendments:

Line 3, strike out the word "one" and insert the word "five."

Line 6, strike out the figures "$1,600" and insert the figures "$1,700."

Line 6, after the word "cost," add the following:

"With illustrations, 1,000 copies of which shall be for the use of the House and 500 for the use of the Senate."

The SPEAKER. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I would like to inquire the cost that this will entail on the National Government?

Mr. BARNHART. Mr. Speaker, I will explain that this is a House resolution that went to the Senate, and it will incur an expenditure of $1,700. It is a provision for the publication of the annual report, or rather the minutes of the national encampment of the Grand Army of the Republic.

Mr. STAFFORD. I remember when it was brought in the House under unanimous consent, and I was present at that time; no objection was raised at that time, but I believe at the time no estimate was made as to the cost——

Mr. BARNHART. Yes; there was.

Mr. STAFFORD (continuing). Occasioned by the publication.

Mr. BARNHART. Yes; it was $1,600.

The SPEAKER. Is there objection?

Mr. RAKER. Mr. Speaker, reserving the right to object, knowing my friend's well-known ideas upon chair warming, I wondered whether or not this legislation ought to be passed under the circumstances with so few in attendance.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Senate amendments were agreed to.

The question was taken, and the concurrent resolution as amended was passed.

DRESS AND WAIST INDUSTRY, NEW YORK.

Mr. BARNHART. Mr. Speaker, I send to the Clerk's desk the following privileged resolution, and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House concurrent resolution 46 (H. Rept. 1151).

Resolved by the House of Representatives (the Senate concurring), That there be printed 20,000 additional copies of House Document No. 939, Sixty-third Congress, Wages and Regularity of Employment in the Dress and Waist Industry in New York City, and 20,000 additional copies of House Document No. 908, Sixty-third Congress, being Conciliation, Arbitration, and Sanitation in the Dress and Waist Industry in New York City; that 15,000 copies of each of said documents be placed in the House document room for use of Members and 5,000 placed in the Senate document room for the use of Senators.

Mr. MADDEN. Mr. Speaker, it seems to me we ought to have these documents credited to Members so that we can all have them. As it is somebody will get all of these documents, as they all go to the document room and they will be taken out and sent into one district.

Mr. BARNHART. I will state to the gentleman that the committee had that fully under consideration, and will explain in a brief way that these are articles of agreement between the laboring people and the dress and waist makers of New York City by which they have maintained industrial peace for four years as it has not been done anywhere else in the United States, and it is believed it is a foundation for a plan whereby industrial peace may be promoted everywhere, and that by sending them to the document room Members can get them and send them out; but if they are sent to the folding room they will go into many districts where there are no industrial concerns.

Mr. MADDEN. I did not know there were any districts in the United States where they had no industrial concerns. I am glad to hear the gentleman give the information.

Mr. BARNHART. I mean comparatively few; there are such districts.

Mr. MADDEN. It seems to me it is not fair to put them in the document room and let some one man go and take all of them. They ought to be put at the disposition of the Members, because every Member of the House has some laboring people in his district to whom he would like to give this information, and he will not be able to get it.

Mr. BARNHART. The misfortune about it is, Mr. Speaker, that the committee's information is that in many instances of this kind Members will permit these documents to lie there and nobody will get the benefit of them, whereas if the labor unions can get some of the documents and the manufacturers some they will broadcast them all over the country, and in that way the publication will be of inestimable value.

Mr. MADDEN. My experience has been this: There have frequently been important public documents assigned to the document room, just as this bill proposes these documents shall be assigned, and I have been anxious to get some of those documents to send out to people who are interested in the subject and I have invariably found myself unable to get them. Somebody who had more influence that I had or was quicker would get to the document room before I could and they would get them all, and then I would have to go and beg one or two from those who got them, and unless this bill provides for a proper distribution of the documents I shall object to its consideration.

Mr. BARNHART. Well, Mr. Speaker, it is a privileged resolution and the gentleman could not object.

Mr. MADDEN. I can object to its consideration now; there is nobody here to pass this bill, as the gentleman knows.

The SPEAKER. Does the gentleman from Illinois [Mr. MADDEN] offer an amendment, or not?

Mr. MADDEN. I would like to suggest an amendment, but I do not want to offer one.

The SPEAKER. Does the gentleman from Indiana [Mr. BARNHART] offer an amendment?

Mr. BARNHART. No.

Mr. MADDEN. Then, Mr. Speaker, I object.

Mr. STAFFORD. Mr. Speaker, will the gentleman permit an amendment along the line suggested by the gentleman from Illinois [Mr. MADDEN]?

Mr. BARNHART. The gentleman can amend it, but I do not care to suggest an amendment here after we have very carefully considered the whole matter in committee. Here is a question of information of great importance to industrial institutions, and we thought we would have this document published and distributed in such a way that those organizations could send them out and use them.

Mr. STAFFORD. Mr. Speaker, I offer the following amendment at the end of the resolution:

Provided, That 12,000 copies of each of said documents shall be for the use of the Members of the House, to be placed in the folding room, and 4,000 copies of each document shall be for the use of the Senate.

The SPEAKER. Has the gentleman got his amendment written out?

Mr. STAFFORD. No; I have not.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Wisconsin [Mr. STAFFORD].

The Clerk read as follows:

Amend, at the end of the resolution, by adding the following:
"*Provided*, That 12,000 of each of the documents be placed in the folding room for the use of the Members of the House, and 4,000 be placed in the Senate document room for the use of the Senate."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on agreeing to the resolution as amended.

Mr. FITZGERALD. Mr. Speaker, the way the resolution reads now it provides that 4,000 of these documents shall be placed in the Senate folding room and 5,000 in the document room, and there are only 5,000 allowed to the Senate altogether.

The SPEAKER. That will have to be remodeled or it will vitiate the whole resolution.

Mr. BARNHART. I trust the gentleman will permit the resolution to go through as it is.

Mr. FITZGERALD. Let me say, Mr. Speaker, that this document, as I recall——

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Let me make this statement first. This document will be of peculiar value to the employees of the particular industries mentioned by the gentleman from Indiana. The conditions under which they are employed are very different from the conditions under which men and women in most other industries are employed.

There are a few sections of the country, notably around the city of New York and around the city of Chicago and one or two of the other great centers of population, where there will be perhaps a considerable demand for the documents. Outside of those particular sections I doubt if there will be any demand for them at all. I think it is that situation that the gentleman from Indiana [Mr. BARNHART] had in mind. For instance, in the city of New York the dress and waist workers are congregated in the lofts of buildings, mostly on Fifth Avenue. They are not scattered all through the city.

Mr. STAFFORD. Will not those documents be just as valuable to the textile operatives in my city and in St. Paul and Minneapolis and in other manufacturing cities as they are in the gentleman's own city?

Mr. FITZGERALD. I doubt it. It is a peculiar condition surrounding these industries. This agreement has been made, by which the employees and employers have some cooperative system. They think that the printing of this document and the circulation of it among the persons engaged in these particular industries will conduce to the preservation of peace between the operatives and the employers. A committee representing the employees and the employers and some disinterested association called upon me recently and explained the situation.

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the vote whereby the amendment to the resolution was adopted be reconsidered.

The SPEAKER. Is there objection to the gentleman's request? [After a pause.] The Chair hears none. The vote is on the amendment of the gentleman from Wisconsin.

Mr. STAFFORD. I withdraw the amendment.

Mr. MADDEN. I withdraw my objection to the consideration of the bill.

The SPEAKER. The gentleman from Illinois withdraws his objection. He does not have to withdraw it, because it is not in order to object.

Mr. MADDEN. It would be in order with the number of people that are present.

The SPEAKER. Of course the gentleman could raise the point of no quorum, but this is not a matter to be considered by unanimous consent. The question is on agreeing to the resolution.

The resolution was agreed to.

SIXTH INTERNATIONAL SANITARY CONFERENCE, MONTEVIDEO, URUGUAY.

Mr. ADAMSON. Mr. Speaker, I am authorized to renew my request for the consideration of Senate joint resolution 166, authorizing the President to designate two officers connected with the Public Health Service to represent the United States at the Sixth International Sanitary Conference of American States, to be held at Montevideo, Uruguay, in December, 1914, and making an appropriation to pay the expenses of said representatives, and for other purposes.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution, for text of which see above.

The SPEAKER. Is there objection?

Mr. MADDEN. Reserving the right to object, Mr. Speaker, I want to say that I am not going to object, but I think, in face of the fact that the President of the United States was here the other day to recommend the enactment of a law to raise $100,000,000 of additional revenue to run the Government, we ought to cut out all these extraordinary, useless expenses. I understand the Democratic members of the Ways and Means Committee have decided to levy an additional 3 per cent tax on freight rates. I do not know whether that is true or not, but if it is true, with the already increased cost of living, caused by the extravagant expenditure of money as the result of a Democratic administration, this is simply going to add that much to the cost of living. Eight or ten years ago the freight rates of the United States cost each family of five people $82 a year. And then in the next five years that increased to $107. Then it increased to $127, and now it is over $150 per annum for a family. Now, when you add to that this 3 per cent as extraordinary revenue for the conduct of the Government of the United States to the already excessive cost of living you are not going to have anybody very much pleased about it. So I say in the face of this situation all these expenditures such as are provided for in this joint resolution ought to be cut out. But I am not going to object. I simply rose for the purpose of making these remarks.

Mr. FARR. How much has this increase in freight rates to the average family been in the last four years?

Mr. MADDEN. It continues to grow out of all proportion to the income of the people, and this proposed tax will undoubtedly make it reach more than $160 per family per annum.

Mr. ADAMSON. The protection of our health is one of the great reasons for raising revenue.

Mr. MADDEN. We shall not learn how to do that in Montevideo.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There was no objection.

Mr. ADAMSON. Mr. Speaker, I offer the following amendment.

The SPEAKER. The gentleman from Georgia offers an amendment, which will be reported by the Clerk.

The Clerk read as follows:

Amend, on page 2, by adding, at the end of line 6, the following: "out of any money in the Treasury not otherwise appropriated."

The amendment was agreed to.

Mr. FITZGERALD. Mr. Speaker, this provides for the appointment of two officers of the Public Health Service to attend the sixth annual sanitary conference. My understanding is that the Surgeon General of the Public Health Service is the president of this conference.

Mr. ADAMSON. That is true.

Mr. FITZGERALD. This resolution proposes to appropriate $2,000 to defray the expense of preparing the necessary data and the collection of the material that the United States will properly send to this conference, and to pay the expenses of the Surgeon General and one of his associates. It seems to me it is highly proper that the United States should do that much.

Mr. ADAMSON. I will add that this Congress is to convene in December. The Government of Uruguay acquiesces in it and helps support it, and all of the American Governments have contributed to it.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Senate joint resolution was agreed to.

On motion of Mr. ADAMSON, a motion to reconsider the vote whereby the resolution was agreed to was laid on the table.

ORDER OF BUSINESS.

Mr. FERRIS. Mr. Speaker, I ask unanimous consent that to-morrow, after the reading of the Journal, the bill (H. R. 16136) to authorize exploration for and disposition of coal, phosphate, oil, gas, potassium, or sodium, may be considered, with the understanding that if there are any pension bills to come up they shall be first disposed of. I am informed that there is nothing on the calendar from the Pension Committees.

Mr. MADDEN. Reserving the right to object, it may be that the Committee on Claims will have something.

Mr. FERRIS. It is not claims day. To-morrow is pension day.

Mr. MADDEN. If, then, the request does not interfere with pensions. I will not object.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent that, notwithstanding to-morrow is Friday, immediately after the reading of the Journal the bill H. R. 16136, which has been under consideration to-day, shall be in order, provided that pension bills, if any, may first be disposed of. Is there objection?

Mr. MADDEN. I object.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 42 minutes p. m.) the House adjourned until to-morrow, Friday, September 11, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Tug and Levisa Forks of Big Sandy River, Ky. and W. Va. (H. Doc. No. 1159); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Mokelumne River, Cal., with a view of its improvement from the Galt-New Hope Bridge to a point at or near Woodbridge (H. Doc. No. 1160); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of the Treasury, requesting the immediate passage of a joint resolution by Congress authorizing the temporary employment of and payment of compensation to such number of money counters and other employees as may be necessary in connection with the issuance and redemption of additional currency under the provisions of the act of Congress approved May 30, 1908 (35 Stat., 552), and amendments thereto (H. Doc. No. 1161); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PAGE of North Carolina: A bill (H. R. 18732) to amend section 98 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. KITCHIN: A bill (H. R. 18733) to amend section 98 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. STEPHENS of Texas: A bill (H. R. 18734) to repeal section 2039 of the Revised Statutes of the United States and other laws relating to the Board of Indian Commissioners; to the Committee on Indian Affairs.

By Mr. CLANCY: A bill (H. R. 18735) authorizing the allotment in severalty of Indian lands in New York State, and for other purposes; to the Committee on Indian Affairs.

By Mr. HOBSON: Joint resolution (H. J. Res. 343) requesting the President to confer with the Governments of the world with a view to issuing a call for the Third Peace Conference to be held in regular session in San Francisco in 1915 and in extra session in Washington at the earliest practicable date; to the Committee on Foreign Affairs.

By Mr. GOODWIN of Arkansas: Joint resolution (H. J. Res. 344) for the appointment of a national marketing commission; to the Committee on Agriculture.

By Mr. BROUSSARD: Resolution (H. Res. 618) authorizing the expenditure of not exceeding $250 out of the contingent fund in the investigation of the National Training School for Boys; to the Committee on Accounts.

By Mr. HEFLIN: Resolution (H. Res. 619) providing for toilet and rest rooms for women and children in Statuary Hall; to the Committee on Accounts.

By Mr. FIELDS: Resolution (H. Res. 620) to print 16,000 copies of Educational Bulletin, No. 20, 1913, Illiteracy in the United States and an Experiment for Its Elimination; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COX: A bill (H. R. 18736) granting an increase of pension to Charles E. Lampheare; to the Committee on Invalid Pensions.

By Mr. HARRISON (by request): A bill (H. R. 18737) to muster out and grant an honorable discharge to John Williams; to the Committee on Military Affairs.

By Mr. KENNEDY of Connecticut: A bill (H. R. 18738) granting an honorable discharge to Wales Porter; to the Committee on Military Affairs.

By Mr. KINKAID of Nebraska: A bill (H. R. 18739) granting an increase of pension to Charles T. Crawford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18740) granting an increase of pension to Henry Fleming; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18741) granting an increase of pension to John Pope; to the Committee on Invalid Pensions.

By Mr. PETERSON: A bill (H. R. 18742) granting an increase of pension to Ida B. Fuller; to the Committee on Invalid Pensions.

By Mr. REED: A bill (H. R. 18743) granting an increase of pension to Thomas L. Holtt; to the Committee on Invalid Pensions.

By Mr. SELDOMRIDGE: A bill (H. R. 18744) granting a pension to Maria Akels; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: Joint resolution (H. J. Res. 342) to correct an error in H. R. 12914; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petitions relative to the high cost of living, presented by the Musicians' Protective Union, Local No. 101, American Federation of Musicians, of Dayton, Ohio; to the Committee on Ways and Means.

Also (by request), petition of the United Presbyterian Presbytery of Indiana, against polygamy in the United States; to the Committee on the Judiciary.

By Mr. BRUCKNER: Petition of W. H. Marshall, New York, and Merchants' Association of New York, favoring bill providing bureau of legislative reference; to the Committee on the Library.

Also, petition of R. C. Williams & Co., New York, against H. R. 9832, requiring all labels to bear the year of packing; to the Committee on Interstate and Foreign Commerce.

Also, petition of George A. Post, president Railway Business Association, favoring establishment of bureau of legislative reference; to the Committee on the Library.

Also, petition of G. L. Leach, New York, favoring H. R. 1672, to pension survivors of early Indian wars; to the Committee on Pensions.

By Mr. BURKE of Wisconsin: Petition of H. Rutz and 52 other citizens of Watertown, Wis., against increased tax on cigars; to the Committee on Ways and Means.

By Mr. DONOVAN: Petition of citizens of Danbury, Conn., under auspices of the Socialist Party, favoring administration by the Government of food supply during war in Europe; to the Committee on Interstate and Foreign Commerce.

By Mr. FOSTER: Petition of citizens of Illinois, favoring Senate joint resolution 144, to settle North Pole controversy; to the Committee on Naval Affairs.

By Mr. GARNER: Petition of citizens of fifteenth congressional district of Texas, favoring Henry bill to lend money to farmers on cotton; to the Committee on Banking and Currency.

By Mr. JOHNSON of Washington: Petition of citizens of Port Angeles, Wash., against national prohibition; to the Committee on Rules.

Also, petition of citizens of Washington, favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Iowa: Petition of K. K. K. Medicine Co., of Keokuk, Iowa, against a tax on proprietary medicines; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island: Petition of committee of wholesale liquor dealers of Rhode Island, against additional tax on rectified spirits; to the Committee on Ways and Means.

By Mr. MADDEN: Petition of citizens of Chicago, Ill., against additional tax on cigars; to the Committee on Ways and Means.

By Mr. O'SHAUNESSY: Petition of J. E. Cox, of Providence, R. I., favoring amendment to H. R. 15902; to the Committee on Printing.

By Mr. STEPHENS of Nebraska: Petition of business men of third Nebraska district, favoring H. R. 5308, to tax mail-order houses; to the Committee on Ways and Means.

SENATE.

FRIDAY, *September 11, 1914.*

(Legislative day of Saturday, September 5, 1914.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

RECORD OF CAPT. JOHN HENRY GIBBONS.

Mr. SMITH of Michigan. Mr. President, I ask unanimous consent to have printed in the RECORD the record of Capt. John Henry Gibbons, United States Navy. It is not very elaborate, but it is very important. I am sure there will be no objection to it.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

RECORD OF JOHN HENRY GIBBONS, CAPTAIN, UNITED STATES NAVY.

Capt. John H. Gibbons was appointed to the Naval Academy as a cadet midshipman on September 18, 1875, graduating in 1879.

His first assignment to duty (1879–1881) was to the U. S. S. *Adams*, Pacific Station, where most of the cruising was spent off the coast of Peru, during the war between Peru and Chile.

In 1881 he was promoted to passed midshipman, and from this time to 1885 he was attached to the training ships *New Hampshire* and *Jamestown*, during which time the *Jamestown* made a trip around Cape Horn and other long cruises.

He was promoted to ensign (junior grade) in March, 1883, and to ensign in 1884. In 1885 he was ordered to duty at the Naval Observatory, Washington, after which, until 1888, he served as instructor of midshipmen at the Naval Academy, in the department of English, history, and law, spending the summer as instructor in navigation for midshipmen on the practice ship *Constellation*.

In 1888 he served on the U. S. S. *Mohican* and later in that year on the U. S. S. *Vandalia*, where he was commended for gallantry during the hurricane at Apia, Samoa, as shown by the following letter from the commanding officer of the *Vandalia*:

JUNE 7, 1889.

To the Hon. B. F. TRACY,
Secretary of the Navy.

SIR: Ensign John H. Gibbons, United States Navy, having been detached from the U. S. S. *Vandalia*, I have the honor to express to the department my appreciation of his uniformly good conduct and officer-like qualities. He was conspicuous for coolness and courage during the gale of March 15 and 16, 1889.

J. W. CARLIN,
Commander, U. S. S. Vandalia.

In 1890 he was transferred to the coast survey steamer *Gedney*, during which time the commanding officer addressed a letter to the Secretary of the Navy commending Lieut. Gibbons on his duty as executive and navigator of that vessel:

"Duty performed conscientiously and well. Displayed intelligence, energy, and interest in field work. Indifferent to danger, long hours, and exposure. Morals above reproach." etc.

In December, 1891, he was promoted to lieutenant (junior grade). From 1891 to 1892 he was instructor at the Naval Academy in English and law, after which, in 1892, he served as assistant inspector of ordnance at the Washington Gun Foundry, and was in charge of the manufacture of the first 5-inch rapid-fire guns and mounts built for the naval service. The report during this time, from the commandant of the Washington Navy Yard, reads:

"Very competent ordnance officer, interested in his work; ingenious."

And in a subsequent report:

"Lieut. Gibbons has been in charge of all work connected with and relating to 5-inch guns and their mounts, also work upon gunlocks, primers, and fuses. Performed his duties excellently."

And later, in 1893, from the commandant of the Washington Navy Yard:

"The duties of his position required special fitness, and this was shown by Mr. Gibbons."

In 1894 he served on the U. S. S. *Chicago* and was transferred to the U. S. S. *Raleigh* in 1895, during which time the *Raleigh* was active in suppressing filibustering off the coast of Florida and Cuba.

In February, 1896, he was promoted to lieutenant, and in 1897 was ordered as aid to the Assistant Secretary of the Navy, in which capacity he had charge of the Naval Militia, including the mobilization of the Naval Militia for service in the Spanish War and additional duties in the organization of the coast signal service. During this time the Assistant Secretary of the Navy, the honorable Theodore Roosevelt, made the following report:

"Lieut. Gibbons served in special charge of the Naval Militia during my time as Assistant Secretary of the Navy. I can not speak too highly of the excellent work that he did. His industry, courtesy, and professional capacity made him invaluable to me as an advisor, not only in relation to his particular duties, but to the general work of the office."

In 1898, at the outbreak of the Spanish War, Lieut. Gibbons was assigned to the U. S. S. *Newark*, and received the West Indian campaign medal for service on the blockade and in the bombardment of Santiago and Manzanillo. During this time Capt. Albert S. Barker, commanding the U. S. S. *Newark*, gave Lieut. Gibbons an excellent report as an officer, adding that Lieut. Gibbons was present at the bombardment of the forts at Santiago July 2, 1898, and later Capt. Goodrich, of the *Newark*, made the following report concerning Lieut. Gibbons:

"A capital officer and shipmate; has marked literary taste."

After the Spanish-American War he was transferred, in 1899, to the U. S. S. *Massachusetts;* thence, in October, 1899, to the U. S. S. *Brooklyn*, serving as navigator of the *Brooklyn* during a cruise to the Philippines. While on the *Brooklyn* he was selected to command the *General Alava* in an expedition to the Gulf of Ragay, where he rescued from the insurgents about 500 American and Spanish prisoners. For this service he received the highest commendation from the Navy Department and the commander in chief of the Asiatic Fleet upon the zeal and ability shown by him in fitting out this expedition and the excellent execution of orders. Upon returning to the *Brooklyn* he served in the Boxer campaign in China, and afterwards, for a brief period, as captain of the port in Manila. In 1901 he was ordered to the United States on the U. S. S. *Oregon*, thus completing a cruise around the world. During this time the commanding officer of the *Oregon*, Capt. Charles M. Thomas, reports that he considers Lieut. Gibbons eminently fit to be intrusted with hazardous and important independent duties.

After a brief tour of duty at Buffalo, N. Y., in charge of the branch Hydrographic Office and Recruiting Service, he was ordered, in 1901, to duty in the Office of Naval Intelligence at Washington, and received the following report from Capt. Charles D. Sigsbee, chief intelligence officer:

"Lieut. Gibbons is an excellent and very ready officer. In compiling and generalizing work he has been of great assistance to me."

In 1902 he was promoted to lieutenant commander, and in June, 1903, was assigned to the command of the U. S. S. *Dolphin*. While on this duty the *Dolphin* was awarded the trophy for excellence in naval gunnery, Lieut. Commander Gibbons receiving from the Secretary of the Navy a letter commending him on the *Dolphin* attaining the greatest rapidity of hitting and the highest final merit of any vessel of her class. The *Dolphin*, under his command, was constantly engaged in cruising along the Atlantic coast, West Indies, and Central America. During this time the Admiral of the Navy made a special report of fitness on Lieut. Commander Gibbons as being an excellent officer in every capacity, fit to be intrusted with hazardous and important independent duties. Among other important duties while under his command the *Dolphin* was detailed on special duty to convey the Japanese peace commissioners from New York to Portsmouth, N. H.

In 1905 he was detached from command of the *Dolphin* and ordered as naval attaché to London. While on this duty his reports cover every field of naval activity, and he was highly commended by the Chief Intelligence Officer, Rear Admiral R. P. Rogers, who states in his reports of fitness: "He has been a very valuable naval attaché," the remainder of his report being excellent throughout.

Among other duties performed while he was naval attaché to London were those in connection with the London naval conference and as special naval attaché to the minister of Sweden during the coronation of King Haakon, Trondjhem.

In December, 1906, he was promoted to commander, and in May, 1909, Commander Gibbons was assigned to the command of the U. S. S. *Charleston*, then on the Asiatic station, and at that time considered the most important command to which a commander was eligible. During this cruise the *Charleston* received the trophy for excellence in naval gunnery, and Commander Gibbons received a commendatory letter from the Secretary of the Navy on the efficient condition of the personnel and matériel of the U. S. S. *Charleston*, she having attained the highest final merit in elementary target practice of any vessel of her class, and Commander Gibbons was further congratulated by the commander in chief of the Pacific Fleet for excellence in gunnery at battle practice, this practice having been conducted in company with eight armored cruisers off Olongapo, P. I.

In solving a strategic problem for the Navy Department Commander Gibbons brought the *Charleston* from Yokohama by the northern route to Bremerton, Wash., in record time.

On June 9, 1910, Commander Gibbons addressed a letter to the Secretary of the Navy, as follows:

"In compliance with article 332, Navy Regulations, I respectfully request that I may be ordered to duty in command of a battleship on active service with the United States Atlantic Fleet.

"My reason for making this application is that the *Charleston* is to go out of commission in the early autumn, at which time there may possibly be vacancies in battleship commands.

"Very respectfully,

"J. H. GIBBONS,
"Commander, United States Navy, Commanding."

This request was not approved and Commander Gibbons, after his promotion to captain in October, 1910, was ordered to the General Board, he having previously placed the *Charleston* out of commission at Bremerton, Wash. While on duty with the General Board he received excellent reports from Admiral Dewey. In May, 1911, Capt. Gibbons was selected as Superintendent of the United States Naval Academy, and while on this duty his administration received the highest commendation from the Navy Department and the Board of Visitors. The following are extracts from the report of the Board of Visitors to the United States Naval Academy, 1911:

"Capt. John H. Gibbons, United States Navy, who assumed the office of superintendent on May 15, is splendidly equipped for this difficult and responsible position, and will undoubtedly maintain the present high standing of the academy during his term of service."

In 1912, after he had served as superintendent for one year, the following report was made by the Board of Visitors:

"The discipline and conduct of the midshipmen has been remarkably good and deserves special mention and commendation.

"The board was especially gratified to find all the officers, professors, instructors, and midshipmen working in perfect accord and harmony.

"The academy is in a prosperous and flourishing condition," etc.

And in 1913, the Board of Visitors made the following report:

"The administration of the affairs of the Academy, under the superintendence of Capt. John H. Gibbons, United States Navy, deserves more than passing commendation. It is apparent that all the departments have been brought to a high degree of efficiency, that due emphasis has been laid on the practical as contrasted with the theoretical side of instruction, and that the earnestness and fair-mindedness of the officers detailed to the academy is reflected in the spirit displayed by the midshipmen. Admirable discipline prevails, and the impression made upon the board is that the midshipmen are in good physical condition and happy in their work. It is evident that Capt. Gibbons and the officers and professors under him keep constantly in view the basic